

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-31914
Issue Nos.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: April 12, 2012
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on April 12, 2012, from Walled Lake, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly reduce the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) case becoming a deductible case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 7, 2012, new budgets were completed for FAP and MA due to a semi-annual contact report. The new budget resulted in a reduction in FAP benefits and resulted in an MA deductible case being opened for Claimant and her husband.
2. On February 7, 2012, Claimant filed a hearing request protesting the changes being made to her case.
3. On February 10, 2012, a case conference was offered by the Department and was rejected by Claimant.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

In the instant case, Claimant submitted a semi-annual contact form indicating income from Social Security not previously included in Claimant's FAP and MA budgets. The Department completed new budgets for both programs resulting in a reduction in benefits for both programs. Claimant requested a hearing to protest these changes.

During the hearing, the Department indicated the FAP benefits were reduced because of the new income being received by Claimant's household. Claimant acknowledged she was receiving \$967 in Social Security income. In addition she acknowledged her child was also receiving \$406 in Social Security income.

The Department presented a copy of the previous FAP budget (Exhibit 13) which shows the only income budgeted for Claimant's household was \$123 in earned income. The Department presented the new FAP budget (Exhibit 16) which shows no earned income budgeted but now includes a total of \$1,373 in unearned income. This changed income resulted in a reduction in FAP benefits from \$668 to \$355.

Claimant indicated she had medical expenses not considered in the FAP budget. Claimant testified she informed the Department of these expenses after receiving the new FAP decision notice. Claimant is requesting the Department consider those expenses in her FAP budget. Claimant testified she was not informed of what to submit or what medical costs were allowed. The Department was not clear during the hearing on what medical documentation, if any, they may have requested or instructed Claimant to submit for consideration in a FAP budget.

Claimant asserted her property taxes and home owners insurance were not reflected correctly in the budget. Claimant testified she is responsible for property taxes in the amount of \$1,573.29. In addition, Claimant testified she also pays \$179 in home owners insurance. The Department budget shows a monthly amount of \$231.76 for those housing expenses. The housing costs testified to by Claimant amount to \$1,752.29. This amount divided over a 12-month period would be \$146. It appears as though the Department has allowed too much for those expenses in the FAP budget in error.

Claimant then requested utility costs be included. The Department FAP budget included the heat and utility standard of \$553 a month. This is made up of items such as non-heat electric, water and/or sewer, cooking fuel, trash/garbage and telephone. Claimant requested the following items also be included in her FAP budget since they are household expenses: personal hygiene products, gas for her car, cell phone, internet service and pet food. This Administrative Law Judge attempted to explain that, while these may very well be household expenses, these expenses are not expenses that can be included in a FAP budget according to BEM 554.

Claimant then asserted the amount of earnings she was allowed to earn according to a benefit letter she received during her original FAP benefit period was greater than the amount of earnings used in the new budget. Claimant asserts if she was eligible to receive \$668 in FAP benefits according to the benefit letter issued during her prior benefit period and not report income that exceeds her new income, why did her FAP benefits decrease to \$355 when she earned less than the amount allowed in the original notice.

In the original certification period, Claimant had earned income in her FAP budget. These earnings qualified Claimant's group for simplified reporting. Simplified reporting allows FAP groups with employment earnings to be assigned a simplified reporting amount. This amount establishes the amount of gross income a group can receive during the FAP certification period before a client is required to report a change in income. Simplified reporting is a method for allowing clients to not report income fluctuations unless they achieve a specified amount. The amount listed only indicates the threshold for reporting income. At review, or when at any point the Department is informed of a change of income, the Department is to complete a new budget which will reflect the amount of benefits the client is eligible to receive. As in the instant case, the Claimant was allowed, under a previous certification period, to earn an established amount of earnings without reporting a change in income. Once a redetermination was completed, the Department utilized the new unearned income to determine FAP benefits.

After considering the above evidence and testimony, this Administrative Law Judge finds the Department's FAP budget was not completed correctly. Specifically, the allowance of shelter costs for home owners insurance and property tax is higher than what Claimant actually incurred. While Claimant may have medical expenses which could be considered in a FAP budget, this Administrative Law Judge is constrained to what the Department had at the time of case action. The evidence of record fails to demonstrate that Claimant had indicated medical expenses at the time of redetermination. Therefore, these costs cannot be ordered to be considered in the FAP budget completed in February 2012. Claimant is encouraged to submit medical expenses to the Department and request they be considered in future FAP budgets.

Claimant protested her MA assistance for herself and her husband being reduced to a deductible/spend-down case. The Department presented the budget completed to determine eligibility for MA coverage. The original MA program that Claimant and her husband qualified under was with income of \$123 in employment earnings. The new budget reflects Claimant's Social Security income of \$967. The income received by her child is not included in this budget. The budget then reduces Claimant's earnings to a net considered income of \$768. The income allowance for a group of 2 people is \$541. Therefore, Claimant has an excess \$227 of income. This translates to the Department finding that Claimant and her husband have a \$227 per month deductible/spend-down amount.

Claimant requested other household costs be included in this budget for consideration. However, the MA program simply does not allow for household expenses to be considered. Claimant does not have any medical insurance premiums or remedial service expenses. Claimant testified to having ongoing medical expenses but, again, these expenses were not provided to the Department at the time of redetermination. While Claimant may have medical expenses which could be considered in an MA budget, this Administrative Law Judge is constrained to what the Department had at the time of case action. Claimant is encouraged to submit ongoing medical expenses to the Department and request they be considered in future MA budgets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when determining the Claimant's MA eligibility. did not act properly when determining Claimant's FAP benefits.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED in part and REVERSED in part.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a review of Claimant's FAP budget;
2. Reprocess Claimant's FAP budget back to March 1, 2012, to include the correct amount for home owner's insurance and property tax;
3. Provide Claimant with a written notice of determination.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 18, 2012

Date Mailed: April 18, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

cc:

