

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2012-58633
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 22, 2012
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Warren, Michigan on Wednesday, August 22, 2012. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits effective June 1, 2012?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. The Claimant's group size is 4.
3. The Claimant's one child receives Supplemental Security Income ("SSI"). (Exhibit 5)
4. The Claimant receives court ordered child support for two children along with certified medical support. (Exhibit 5)

5. The Claimant pays \$616.90 for her shelter obligation and is responsible for utilities.
6. On May 1, 2012, the Department sent a Notice of Case Action informing the Claimant that her FAP benefits would reduce to \$143.00 effective June 1, 2012. (Exhibit 1)
7. On June 14, 2012, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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, Rules 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 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, Rules 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 of Human Services 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 Mich Admin Code, Rules 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, Rules 400.5001 through R 400.5015.

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212, p. 1 (April 2012). Shelter expense is an allowable expense and includes rent payments. BEM 554, p. 10 (January 2011). In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/ maintenance payments. BEM 554, p. 12 (January 2011).

All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. BEM 500, p. 3 (April 2012). Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 503, p. 5 (October 2011). Medical, dental, child care and educational expenses may also be included. BEM 503, p. 5 (October 2011). Court-ordered child support may be either certified or direct. BEM 503, p. 5 (October 2011). Certified support is retained by the state due to the child’s FIP activity while direct support is paid to the client and is countable for FAP purposes. BEM 503, p. 5 (October 2011). The gross amount of current SSA-issued SSI benefits is counted as unearned income. BEM 503, p. 24 (October 2011)

In this case, the Department determined that the Claimant received \$2,235.00 in unearned income consisting of SSI benefits for one child and court ordered, direct child support for two children along with court ordered medical support. During the hearing, the unearned income from these sources was reviewed and it was determined that the unearned income used in determining the Claimant’s FAP budget was overstated. Also, the Claimant testified that her monthly shelter obligation was \$616.90; however, the Department used \$818.60. In light of the errors, the Claimant’s FAP budget is incorrect. Accordingly, the Department’s FAP determination effective June 1, 2012 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it calculated the Claimant’s FAP benefits effective June 1, 2012.

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

1. The Department’s FAP determination is REVERSED.

2. The Department shall recalculate the Claimant's FAP benefits effective June 1, 2012 to include the correct unearned income figure and the correct shelter obligation in accordance with department policy.
3. The Department shall notify the Claimant and her Authorized Hearing Representative of the determination in accordance with department policy.
4. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 29, 2012

Date Mailed: August 29, 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

CMM/cl

cc:

