

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201264528
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 13, 2012
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a telephone hearing was held on August 13, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED], law student representative proceeding pursuant to MCR 8.120; and [REDACTED] (P68457), [REDACTED] supervising attorney. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for January 1, 2012, ongoing?

FINDINGS OF FACT

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

1. Claimant is an ongoing recipient of FAP benefits.
2. The Department budgeted Claimant's Supplement Security Income (SSI) income into her FAP budget.
3. Fluctuations in Claimant's monthly SSI benefits beginning in January 2012 resulted in fluctuating monthly FAP benefits issued to Claimant.
4. Claimant filed a hearing request on June 25, 2012, disputing the Department's actions.

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.

Additionally, the Department testified that Claimant's monthly FAP benefits fluctuated between January 2012 and June 2012 because of fluctuations in Claimant's monthly SSI benefits. While the Department contended that fluctuations in Claimant's SSI were due to changes in Claimant's earned income reported to the SSA, there was no evidence presented to support the Department's explanation. To the contrary, Claimant

credibly testified that she was paid \$192 twice a month by her employer, and this income had not changed.

Although changes in SSI benefits paid to Claimant could not be explained by changes in Claimant's earned income, the Department produced Claimant's report from the Single OnLine Query (SOLQ), the Department's data exchange with the Social Security Administration (SSA), at the hearing which showed that, while Claimant's current SSI gross payable amount as of July 1, 2012 was \$218.63 and the amount she was entitled to receive in federal SSI benefits (before adjustments for overpayments) was \$218.63, there were some out-of-the-ordinary SSI payments made to Claimant in February and March 2012 and Claimant received \$280 in SSI monthly payments in April, May and June 2012.

In this case, the Department testified that, in calculating Claimant's gross monthly unearned benefits, it relied on the following amounts for Claimant's SSI benefits: \$99.10 for February 2010; \$206.10 for March; \$280.00 for April 2012, May 2012, and June 2012; and \$218 for July 2012 ongoing. A review of the SOLQ shows that the Department considered amounts that the SSA paid to Claimant that were identified as "recurring payments." The Department did not consider the underpayments made to Claimant on February 2, 2012 of \$139.60 and on February 21, 2012 of \$55.20 and the supplemental payment on March 1, 2012 of \$93.73. In calculating unearned income, the Department must count the gross amount of current SSA-issued SSI. BEM 503. Thus, the Department acted in accordance with Department policy in applying the recurring SSI payments, which were current SSA-issued SSI, in calculating Claimant's unearned income for her FAP budget.

Claimant explained that additional payments from the SSA were due to reimbursements for travel expenses she incurred which were "impairment-related expenses" and contended that those should be excluded from the calculation of her SSI benefits. The Department excludes that portion of income received from another individual, an agency or an organization that covers past, current or future expenses when all of the following are met: (i) the payment is not for normal household living expenses such as rent, mortgage, personal clothing or food eaten at home, (ii) the payment is for a specifically identified expense, (iii) the payment is used for its intended purpose, and (iv) the payment is made or documented separately from other payments. Because any payments made by SSA to Claimant to reimburse her for transportation expenses which were included in the SSI payments identified as recurring were not documented separately from these payments, the Department acted in accordance with Department policy when it did not exclude any such reimbursed expenses from the calculation of Claimant's SSI benefits.

At the hearing, the Department presented a FAP budget only for August 1, 2012, ongoing, which reflected the same income information that was applicable in July 2012. This budget showed the calculation of Claimant's monthly FAP benefits when her SSI benefits were \$218.63. In the calculation of her income, the FAP budget included Claimant's monthly gross Retirement, Survivors and Disability Insurance (RSDI)

benefits of \$352, her monthly gross earned income of \$384, and her monthly State SSI Payment (SSP) benefits of \$14 (based on quarterly payments of \$42), in addition to her SSI benefits of \$218. The sum of these income sources is \$968, consistent with the Department's calculation in the FAP budget. Claimant was eligible for a earned income deduction equal to 20% of her earned income, or \$77 in this case, and a standard deduction of \$146 based on her FAP group size of one, both of which were taken into account in the budget. BEM 554; RFT 255. Claimant was also entitled to an excess shelter deduction of \$453, which took into account her monthly shelter expenses of \$272 and the heat and utility standard deduction of \$553 available to all FAP recipients. BEM 554. Based on these figures, the Department properly calculated Claimant's \$112 monthly FAP benefits for July 1, 2012, ongoing.

Claimant contended that transportation costs that she had submitted to the Department should have been included in her FAP budget as a medical expense deduction because they were expenses she incurred in traveling to her rehabilitative services. Claimant, as a Senior/Disabled/Veteran (SDV) member of her FAP group, was eligible for a deduction in her FAP budget for medical expenses exceeding \$35. BEM 554. Allowable medical expenses include actual costs of transportation and lodging necessary to secure medical treatment or services. BEM 554. The Department does not have to verify factors such as the allowability of a services unless questionable. BEM 554.

In this case, the Department testified that the documentation submitted by Claimant did not identify the transportation expenses as medically-related. Rather, it indicated that the costs incurred were to transport Claimant to and from employment. The Department credibly testified that, when it contacted [REDACTED], which is both Claimant's employer and the provider of her rehabilitative services, it was informed that Claimant's transportation costs were employment-related. Under these facts, the Department properly excluded the transportation costs from the calculation of Claimant's medical expense deduction.

While the Department presented evidence concerning the manner in which it calculated Claimant's unearned income for April, May and June 2012, it did not present FAP budgets for any of those months, or for January through March 2012 (all months in which Claimant had expressed a concern regarding the amount of her FAP benefits). While it appears from a review of the SSI amounts the Department properly considered for each of the months at issue that the monthly FAP benefits were properly calculated, the Department, by failing to produce FAP budgets for these months, has failed to satisfy its burden of showing that it calculated Claimant's FAP benefits between January 2012 and June 2012 in accordance with Department policy.

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 .

did not act properly when it failed to satisfy its burden of showing that it calculated Claimant's monthly FAP benefits between January 2012 and June 2012 in accordance with Department policy.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Recalculate Claimant's FAP budgets for January 2012 through June 2012 in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2012, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 21, 2012

Date Mailed: August 21, 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 to:

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

ACE/hw

cc:

