

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

IN THE MATTER OF:



Reg. No.: 201273693
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: October 24, 2012
County: Oakland (02)

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 October 24, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for October 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 was an ongoing recipient of FAP benefits.
2. On July 30, 2012, Claimant reported to the Department that she had begun receiving Retirement, Survivors and Disability Insurance (RSDI) benefits.
3. On August 21, 2012, the Department sent Claimant a Notice of Case Action advising her that her monthly FAP benefits would be reduced to \$16 effective October 1, 2012, because of the increase in her unearned income.
4. On August 27, 2012, Claimant filed a request for hearing, disputing the Department's calculation of her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, 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 August 21, 2012 Notice of Case Action sent to Claimant after she reported that she had begun receiving RSDI benefits notified her that her monthly FAP benefits would be reduced to \$16 beginning October 1, 2012.

The Department produced a FAP budget showing the calculation of Claimant's FAP allotment for October 1, 2012, ongoing. The budget showed that Claimant had \$1479 in monthly unearned RSDI income, which Claimant confirmed was accurate. Claimant also verified that she was the sole member of her FAP group. The budget indicated that Claimant received a \$146 standard deduction for her FAP group size of one. However, effective October 1, 2012, the standard deduction for a group size of one increased to \$148. BEM 556 (July 1, 2011), p 3; RFT 255 (October 1, 2012), p 1. The excess shelter deduction of \$602 is consistent with the Department's testimony that it considered Claimant's monthly housing expenses of \$715 and applied the standard monthly heat and utility deduction of \$553 available to all FAP recipients. BEM 554 (January 1, 2012), pp 10-11; BEM 556, p 4. However, as of October 1, 2012, the heat and utility deduction increased to \$575. RFT 255, p 1. Because the Department did not use the correct figures for the standard deduction and the heat and utility deduction, the Department did not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

Claimant also expressed concerns regarding her medical expenses. Claimant, as a senior/disabled/disabled veteran (SDV) member of her FAP group, is entitled to a deduction for verified medical expenses exceeding \$35. BEM 554 (October 1, 2012), pp 1, 6. In this case, Claimant provided the Department with a single bill showing an outstanding balance of \$805.35 and requiring payment of \$25. Because the medical expense for the month was \$25, the Department properly concluded that Claimant was not eligible for a medical expense deduction based on the medical bill she provided. Although Claimant credibly testified that she had additional medical expenses, she acknowledged that she had not provided verification of those expenses prior to the hearing. Therefore, the Department acted in accordance with Department policy when it did not include unverified expenses in the FAP budget. BEM 554, p 2. Claimant was encouraged to submit verifications of medical expenses to possibly affect future FAP benefits. See BEM 554, p 3.

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

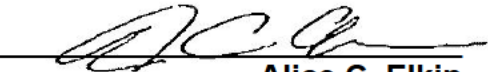
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 did not act properly when calculating Claimant's FAP budget.

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 budget for October 1, 2012, ongoing, 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 October 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: 10/26/2012

Date Mailed: 10/26/2012

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

ACE/hw

cc:

