

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-76527
Issue No.: 2027
Case No.: [REDACTED]
Hearing Date: March 20, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 March 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly stop paying Claimant's quarterly State Supplemental Payment (SSP)?

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 SSP until his case closed as of 6/1/12.
2. Claimant began living in an Adult Foster Care home beginning April 2012.
3. Claimant receives SSI from the Social Security Administration and received an overpayment of benefits. Claimant Exhibit A.
4. The Department sent Claimant a Notice of payment change on 8/21/12 and cancelled the SSP payment because Claimant had not received first of the month payments from Social Security for three consecutive months.

5. Claimant's Authorized Hearing Representative requested a hearing on 8/24/12 protesting the cancellation of Claimant's SSP benefits.

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.

Department policy provides with regard to State SSI payments:

Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. It is a federal program administered by the Social Security Administration (SSA). States are allowed the option to supplement the federal benefit with state funds. In Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount of the state benefit varies by living arrangement.

The SSA issues the federal benefit to all SSI recipients. The SSA also issues the state funded benefit for SSI recipients in the following living arrangements:

- Adult foster care.
- Domiciliary care.
- Personal care.
- Home for the aged.
- Institution.
- Nursing home.

BEM 660 (November 1, 2012), p.1.

In this case, the evidence presented established that since April 2012 through the date of the hearing, Claimant has been residing in an adult foster care living situation. The Department closed Claimant's SSP case on 6/1/12. The Department sent a Notice of State SSI Payment Change on 5/22/12 advising: the State SSI payment was cancelled. The reason for cancellation was that the Social Security Administration notified the State of Michigan that

"...your [Claimant's] living arrangement has changed to Personal Care. This is the last State SSI payment Check you will receive from Michigan Department of Human Services. The Social Security Administration includes the State SSI Payment for this living arrangement in the check they issue." Exhibit 7.

Based upon the above-referenced policy, it is determined that the cancellation of SSP was correct as Claimant was living in Adult Foster Care.

Again, on 8/21/12, the Department issued another Notice of State SSI Payment Change and indicated that the Social Security Administration notified the Department that

"...you did not receive a regular first of the month SSI check for 3 months. You must receive the first of the month SSI check to be eligible for a State SSI Payment."

It appears that Claimant received an overpayment of SSI federal benefits and that first of the month recurring payment was not made beginning December 2011 due to the overpayment. Claimant Exhibit A. While the Department's second notice issued in August 2012 was technically correct the Department had already closed the Claimant's case in June 2012 due to his residing in an Adult Foster Care Facility and therefore the Second notice while correct does not have any further on going effect as the Claimant continues to live in Adult Foster Care through the date of the hearing. BEM 660

Thus, it is concluded that even though Claimant's SSP closed June 1, 2012, the August 2012 cancellation was also proper and correct as Claimant was not receiving a first of the month check and continued to live in Adult Foster Care.

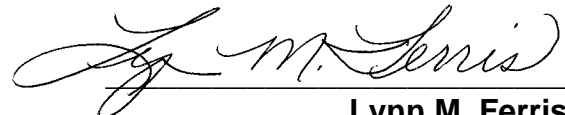
DECISION AND ORDER

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 it closed Claimant's SSP case effective June 1, 2012, and cancelled SSP payments as of August 2012.

did not act properly when .

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



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 26, 2013

Date Mailed: March 27, 2013

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 affect the substantial rights of the claimant:
 - 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

LMF/pf

cc:

