

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201211434
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: December 7, 2011
County: Wayne County DHS (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 December 7, 2011, from Detroit, Michigan. Participants on behalf of Claimant included The Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES and [REDACTED], ES.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance Benefits?

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 December 1, 2011 the Department reduced the Claimant's FAP benefits by Notice of Case Action dated November 9, 2011.
2. The Department received a change in shelter expense from \$267 to \$265 and the utility standard was reduced from \$588 per month to \$553 per month for all FAP recipients.
3. The Claimant requested a hearing on July 1, 2011 protesting the reduction of her food assistance 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.

Additionally, a thorough review of the Claimant's FAP budget was made during the hearing. The Claimant confirmed that the unearned income amount of \$1024 was correct, and the Department testified that the shelter amount it used for the Claimant's portion of her rent was \$265. After the hearing and ruling on the record affirming the Department's calculation of the FAP benefits, it was noted that the Department used

\$276 for the Shelter expense and not the \$265 that it had earlier testified was the shelter expense amount. Due to this discrepancy the Department must confirm, based upon the shelter verification supplied by the Claimant, the correct shelter amount for rent, and if necessary, recalculate the FAP benefits if the \$276 rent amount it used is incorrect. The ruling issued at the hearing affirming the Department is modified due to the discrepancy between the testimony by the Department that it used \$265 for rent and the excess shelter calculation exhibit 2, where it used \$276 for the rent expense amount. After a review of the budget and the shelter deduction calculation, it is determined that the Department has a discrepancy which it must resolve, and if necessary correct. The Department's FAP benefit calculation, to the extent it may be incorrect must be reviewed based on the actual shelter verification to avoid an overissuance or underissuance of benefits. The only other change to the FAP budget based on the correct utility standard is correct and was applied to all FAP recipients. The FAP budget as presented at the hearing cannot be affirmed as correctly calculated as the actual shelter amount for rent may be incorrect.

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 calculated the shelter deduction amount..

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record and as set forth in this Decision.

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

1. The Department shall review the Claimant's shelter verification that it recently received and determine the correct shelter expense paid by the Claimant for rent. If the rent amount is \$276, and is confirmed by the shelter verification of rent, then the Department shall not be required to recalculate the FAP benefits as it used the correct expense, and is AFFIRMED.
2. If after the review of the Claimant's shelter verification, the Department determines that the shelter expense for rent was \$265 then the FAP budget must be recalculated to use the correct shelter expense for rent and the benefits adjusted accordingly as of December 1, 2011.



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

Date Signed: 12/13/11

Date Mailed: 12/13/11

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

LMF/hw

cc:

