

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-22063
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 27, 2012
County: Oakland (02)

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 following Claimant's request for a hearing. After due notice, a hearing was held in Madison Heights, Michigan on Monday February 27, 2012. The Claimant appeared and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED].

ISSUE

Did the Department properly calculate the Claimant's food assistance ("FAP") benefits effective January 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. Effective January 1, 2012, the Claimant received \$710.00 in Retirement, Survivors, and Disability Insurance ("RSDI") income. (Exhibit 1, p. 6)
3. The Claimant received \$51.00/month in Social Security Income ("SSI") and \$42.00/quarterly in State Supplemental Income. (Exhibit 1, p. 7)
4. Effective January 1, 2012, the Claimant's spouse received \$332.00 in gross SSI benefits. (Exhibit 1, p. 8)

5. The Claimant's group size is 2.
6. The Claimant pays \$664.54/month for shelter and is responsible for utilities. (Exhibit 1, pp. 3, 4)
7. As a result of the increased unearned income, the Claimant's FAP benefits reduced from \$328.00 to \$300.00 effective January 1, 2012. (Exhibit 1, p. 1 – 8)
8. On December 17, 2011, the Department notified the Claimant of the change in FAP benefits.
9. On December 22, 2011, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are found 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, Rules 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children 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. 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 Rule 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, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance ("SDA") program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department, 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 Rule 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 Rule 400.5015.

Group composition is the determination of which persons living together are included in the FAP program group. BEM 212. Spouses who are legally married and live together must be in the same group. BEM 212. Shelter expense is an allowable expense and includes rent payments. BEM 554. 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.

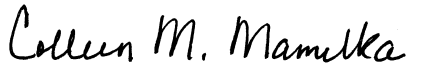
The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 500. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. SSI and RSDI income, a federal benefit administered by the Social Security Administration, is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503. The gross benefit amount is counted as unearned income. BEM 503.

In this case, the Claimant acknowledged that the gross RSDI and SSI unearned income received by his household. The Claimant believed that the net amount should be used in calculating his eligibility. During the hearing, it was explained that pursuant to policy, the Department is to use the gross benefit amount and has no discretion to do otherwise. Ultimately, the Department established that it acted in accordance with department policy when it reduced the Claimant's FAP allotment from \$328.00 to \$300.00 based on an increase in unearned income. Accordingly, the Department's determination is AFFIRMED.

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. did not act properly when .

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.


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

Date Signed: February 29, 2012
Date Mailed: February 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:

