

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-25171
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: March 29, 2012
County: Wayne (41)

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 Detroit, Michigan on Thursday, March 29, 2012. The Claimant appeared, along with [REDACTED] and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED]

ISSUE

Whether the Department properly reduced the Claimant's food assistance ("FAP") benefits effective January 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. The Claimant's group size is 2.
3. The Claimant receives \$1,337.90 in gross Retirement, Survivors, and Disability, Insurance ("RSDI") income. (Exhibit 1)
4. The Claimant pays the \$99.90 Medicare Part B premium. (Exhibit 1)
5. The Claimant receives a \$255.00/month pension.

6. The Claimant's spouse receives \$660.90 in gross RSDI income. (Exhibit 2)
7. The Claimant's spouse pays \$451.00 in Medicare Part A premium and \$99.90 for Part B. (Exhibit 2)
8. The Claimant's monthly shelter obligation is \$526.21 and he is responsible for utilities.

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 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 ("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 AACS, 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.

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. 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.

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.

In this case, the Department notified the Claimant that his FAP benefits would reduce effective January 2012 from \$82.00 to \$54.00 as the result of a cost-of-living increase in his, and his spouse's, RSDI income. The Claimant agreed with the income figures used in determining his eligibility. That being stated, while going through the budget, it was discovered that the incorrect medical deduction was used. Specifically, the Department used a medical deduction of \$546.00 which represented the medical premiums paid by the Claimant's spouse. The Claimant also paid \$99.90 for Part B premium which was not included in the medical deduction. Additionally, although the Claimant notified the Department of a reduction in his monthly shelter obligation, the reduction was not considered. Instead, the Department determined FAP eligibility based on a \$782.43 shelter obligation as opposed to the actual \$526.21 monthly mortgage payment. In light of the foregoing, it is found that the Department incorrectly calculated the Claimant's FAP benefits effective January 1, 2012 based on the incorrect medical deduction and shelter obligation. Accordingly, the Department's determination is not upheld.

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 not act properly when it determined the Claimant's FAP allotment effective January 1, 2012.

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

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 recalculate the Claimant's FAP allotment effective January 1, 2012 by including the correct medical deduction and shelter obligation in accordance with department policy.
2. The Department shall notify the Claimant of the determination in accordance with department policy.
3. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

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

Date Signed: April 2, 2012

Date Mailed: April 2, 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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc:

