

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 2768
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: November 10, 2011
County: Oakland County DHS (02)

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 November 10, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES.

ISSUE

Did the Department properly calculate Claimant's

- benefits,
 deductible
 co-pay? contribution.shortfall for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> State Emergency Services (SER)? |

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 receives
 FAP benefits of \$\$65 September, \$56 October and \$123 October 2011 monthly.
2. the Department reduced the Claimant's FAP benefits in September and her FAP benefits fluctuated. The Department included the correct unearned income of \$1212,

the correct rent of \$569. The Department included medical expenses when calculating the October and November 2011 FAP benefits, but did not include medical expenses in September 2011 when calculating the FAP benefits.

2. On September 26, 2011 , Claimant filed a hearing request, protesting the calculation and amount of her food assistance.

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 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 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 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, Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400-7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, In this case the Claimant requested a hearing regarding her food assistance benefits received over a three month period (September through November 2011). The Claimant's benefits fluctuated during the period due to changes in Department policy, and the amount of the Claimant's medical expense deductions included in her FAP budget. At present, the Department has increased the Claimant's FAP benefits for October 2011 and November 2011, pending receipt of an asset verification request sent to the Claimant November 8, 2011, which at the time of the hearing the Claimant had not received. Once the requested verification is received, the Claimant's FAP benefits for October will be \$158 and November benefits will be \$200. These benefits will be reduced by any FAP benefits the Claimant has already received for those months. The Claimant will receive a FAP supplement.

At the hearing the Claimant's main concern was that the Department had not included her ongoing medical expenses in her FAP benefit calculation. The Department presented FAP budgets for the months in question, which were reviewed and determined to be correct for October and November 2011. The Claimant's correct unearned income from RSDI of \$1212 and her rent of \$569 were confirmed by the Claimant and used to calculate all the FAP budgets. Both budgets included medical expenses. The October budget included \$226 in medical expenses and the November budget included \$748 in medical expenses. The expenses included were based on the medical bills submitted to the Department September 27, 2011.

September FAP Benefits.

The Department correctly included a \$553 shetler utility standard which caused the FAP benefits for September 2011 to be reduced. This item was the only item changed by the Department in the September FAP budget and the change was part of a mass update applied to all FAP recipients, as the Department reduced the utility standard for all FAP recipients. The Department correctly calculated the September benefits, except that ongoing medical expenses for Medicaid Part D insurance in the amount of \$183 was not included as a medical expense. Based upon this omission of the medical expense the September 2011 FAP budget must be recalculated .

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

- properly calculated Claimant's
- benefits,
- deductible
- copay/contribution/shortfall for:

FIP.

FAP for the months of October 2011 and November, 2011
 MA. SDA. CDC SER.

improperly calculated Claimant's
 benefits,
 deductible,
 copay/contribution/shortfall for:

FIP.
 FAP for the month of September 2011.
 MA. SDA. CDC SER.

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 in its calculation of the FAP benefits for October and November 2011
 did not act properly when it calculated September 2011 FAP benefits

Accordingly, the Department's action is AFFIRMED with respect to its determination of the FAP benefits for October 2011 and November 2011.

REVERSED with respect to its determination of September 2011 benefits.

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 initiate recalculation of the Claimant's September 2011 FAP benefits and shall include as a medical expense the Claimant's Medicaid Part D premium in the amount of \$183.
2. The Department shall issue a supplement to the Claimant for September 2011 FAP benefits she is otherwise entitled to receive in accordance with Department policy.



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

Date Signed: 11/15/11

Date Mailed: 11/15/11

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:

