

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201327952
Issue No.: 3023
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly issue supplements for Claimant's Food Assistance Program (FAP) benefits for September 2012, October 2012, and January 2013?

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 FAP benefits.
2. Pursuant to a hearing held on January 8, 2013, the Department agreed to ensure that a Department of Information Technology (DIT) remedy ticket would be processed and supplements for any FAP benefits Claimant was eligible to receive would be issued.
3. The Department issued a \$30 FAP supplement for September 2012.
4. Because the Department was unable to recalculate Claimant's October 2012 FAP budget and issue supplements for any FAP benefits Claimant was eligible to receive,

the Department submitted a DIT remedy ticket (BR-0003953) on February 5, 2013, requesting Lansing's assistance.

5. Due to a technological glitch, Claimant did not receive his January 2013 FAP benefits on the scheduled payment date.
6. On January 31, 2013, Claimant filed a hearing request concerning (i) his January 2013 benefits and (ii) the Department's failure to explain the calculation of his September 2012 and October 2012 FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Reference Forms and Publications Manuals (RFF).

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 Mich Admin Code, 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.

Claimant requested a hearing on January 31, 2013, concerning the Department's failure to issue his January 2013 FAP allotment and the calculation of his September 2012 and October 2013 FAP benefits.

January 2013 FAP Issuance

The evidence at the hearing established that, because of a technological glitch, the Department had erroneously failed to timely issue Claimant's January 2013 FAP benefits, but that \$132 in FAP benefits was issued to Claimant for January 2013 on January 31, 2013. Claimant acknowledged receiving the supplement but disputed the amount of the benefits. Because Claimant's hearing request did not address the *amount* of the January 2013 benefits, this issue was not properly raised for consideration at the instant hearing. Further, the Department credibly testified that Claimant submitted a separate hearing request disputing the calculation of his January 2013 benefits. Thus, the issue will be addressed at a later date.

September 2012 FAP Supplement

The Department established that, in connection with its agreement at the January 8, 2013 hearing, it issued a \$30 supplement for Claimant's September 2012 FAP benefits. At the hearing, Claimant disputed the Department's calculation of this supplement, contending that, once his medical expenses were taken into account, his FAP allotment should have been greater.

The Department worker explained that the September 2012 supplement was issued pursuant to a Department of Information and Technology (DIT) ticket sent to Lansing. DIT advised her that, because it was unable to recalculate Claimant's September 2012 budget electronically, it manually recalculated the budget using the local office's determination of medical expenses eligible for deduction for the month, which included (i) ongoing medical expenses of \$104.90 for Claimant's Part B Medicare premiums, \$104.90 for Claimant's wife's Part B Medicare premiums, \$37.60 for Claimant's Medicare Part D premiums, \$122.86 for Claimant's health insurance premiums, and \$122.86 for his wife's insurance premiums, and (ii) several medical expenses incurred in September 2012, primarily for prescriptions. Because Claimant's September 2012 FAP budget was manually calculated by DIT, the Department worker testified that she was unable to provide a budget showing the calculation of Claimant's FAP benefits for September 2012 based on the foregoing. Under these facts, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's September 2012 FAP budget.

October 2012 FAP Supplement

The Department agreed that it had failed to recalculate Claimant's FAP budget for October 2012 in accordance with its agreement at the January 8, 2013, hearing. The Department credibly testified that it did not become aware of the issue until January 28, 2013, and, when the local office was unable to resolve the issue, on February 5, 2013, it requested assistance from DIT pursuant to ticket BR-0003953. As of the hearing date, this issue remained unresolved. Thus, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to recalculating Claimant's October 2012 budget and issuing supplements for any FAP benefits Claimant is eligible to receive.

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 issued a supplement for Claimant's January 2013 benefits.
 did not act properly when it failed to satisfy its burden of showing that it calculated Claimant's September 2012 and October 2012 FAP budget in accordance with Department policy.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the issuance of the January 2013 FAP benefits AND REVERSED IN PART with respect to the Department's failure to satisfy its burden of showing that it calculated Claimant's September 2012 and October 2012 FAP benefits in accordance with Department policy.

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

1. Begin recalculating Claimant's FAP benefits for September 2012 and October 2012 in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not for September 2012 and October 2012; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/20/2013

Date Mailed: 3/20/2013

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 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

ACE/hw

cc:

