

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201231027
Issue No.: 2001; 3002
Case No.: [REDACTED]
Hearing Date: March 8, 2012
County: Macomb DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 8, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) and Adult Medical Program (AMP) benefit eligibility.

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 FAP and AMP benefit recipient.
2. On an unspecified date, DHS requested Claimant's income verifications for a redetermination effective 12/2011.
3. On an unspecified date, Claimant submitted documents verifying the following weekly gross employment income and pay dates: \$293.10 on 9/15/11, \$211.60 on 9/22/11 and \$179 on 9/29/11.
4. Claimant's pays remained fluctuating, but were slightly smaller beginning 10/6/11.

5. On an unspecified date, DHS redetermined Claimant's FAP and AMP benefit eligibility based on Claimant's pays from 9/15/11, 9/22/11 and 9/29/11.
6. On an unspecified date, DHS determined Claimant to be eligible for \$89/month in FAP benefits and ineligible for continuing AMP benefits effective 11/2011.

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 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 present case involved a FAP and AMP benefit determination effective 11/2011. The only issue in dispute was whether DHS properly determined eligibility based on reported employment income.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 at 4. Alternatively, DHS may use income from the past 60 or 90 days for fluctuating or irregular income, if the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. *Id.* DHS is to count the gross employment income amount. BEM 501 at 5.

In response to a request for income needed for a benefit redetermination beginning 12/2011, Claimant submitted weekly check stubs from 9/15/11, 9/22/11 and 9/29/11. Prior to the redetermination, Claimant gave no indication that the verified income was anything less than representative of her future earnings. As a result, DHS used the reported income to determine Claimant's FAP and AMP benefit eligibility.

Claimant contended that her 9/2011 pays were higher than normal because she worked additional hours following an unexpected departure of an employee. Claimant brought check stubs from 10/6/11-11/17/11 to the hearing which tended to support an income decrease, though the decrease was relatively small.

As of the unspecified date of the original FAP and AMP benefit determinations, there is no basis to amend the decisions based on a change in income as DHS had no reason to believe that the income used in the redetermination was unrepresentative. Accordingly, it is found that DHS properly used Claimant's verified income from 9/2011.

DHS testified that three checks from 9/2011 were used in the redetermination. It is doubtful that DHS accurately stated what checks were used, as the correct converted monthly income from the three checks is actually higher than what DHS budgeted (see Exhibits 1 and 5). As DHS calculated a slightly more favorable income for Claimant, there is no basis to reverse the FAP and AMP benefit determinations.

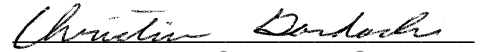
DECISION AND ORDER

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 determining Claimant's FAP and AMP benefit eligibility effective 12/2011.

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.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 13, 2012

Date Mailed: March 13, 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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

