

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 3166
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 and his Guardian, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] h, Assistance Payments Supervisor, and [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 \$189 monthly.

2. the Department reduced the Claimant's FAP benefits in September 2011, in part due to the change in utility allowance given to all FAP recipients. The Department included the unearned income of \$708, and did not include any medical expenses.
3. On September 27, 2011, Claimant filed a hearing request, protesting the calculation of his 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, The Department correctly reduced the FAP benefits for September 2011 when it used the new utility standard amount of \$553. The Department's action in that regard was correct and in accordance with Department policy.

The Claimant questioned why the Department included in the gross countable income, the \$10 deducted monthly by the Social Security Administration (SSA) due to an over payment of benefits by the SSA.

BEM 500 at page 12 provides: Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. Enter the amount of an overpayment deducted in the overpayment amount field in the monthly deductions section on the unearned income details screen. Bridges excludes these amounts as income.

Based upon this provision, the Department should have excluded the \$10 each month that is deducted from the Claimant's RSDI by the SSA. The Claimant's unearned income is overstated by \$10. Because of this error the Claimant's FAP budget must be corrected to include the correct gross income.

The Claimant also questioned whether the Department correctly excluded the transportation costs submitted on behalf of the Claimant for trips for medical appointments. The Department denied the transportation costs, as they were not on a form or in a format that it requires. The Department conceded that it should have sought further verification of the expenses before not including them in the FAP benefit calculation. In that regard BEM 554 provides the following transportation costs are included allowable medical expenses:

Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dmb, select Services & Facilities from the left navigation menu, then select Travel. On the travel page, choose [Travel Rates and High Cost Cities](#) using the rate for the current year.

Based on the foregoing, the Department must determine whether the transportation expenses as submitted are allowable as a medical expense, and if so recalculate the FAP benefits to include them after seeking further verification of the information if necessary.

Lastly, the Claimant requested a review regarding the Department's disallowance of the Claimant's costs of vitamins he requires (as recommended by his doctor). The question

is whether the vitamin purchase receipts are allowable medical expenses. BEM 554 covers this point and provides that prescription drugs and the postage for mail ordered prescriptions and Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional. It appears that vitamins are not included in these categories as they were not prescribed and do not fit the category of an over the counter medication. BEM 554, p 8.

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

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

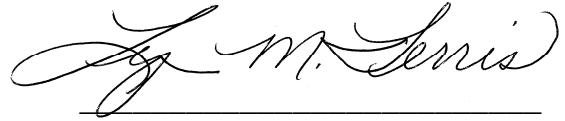
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did not act properly when it calculated September 2011 FAP benefits

Accordingly, the Department's calculation decision is 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 the correct unearned income amount and shall exclude as countable income the \$10 dollars deducted each month by SSA (due to an overpayment of RSDI).
2. The Department shall initiate review of the transportation expenses to determine if they are allowable medical expenses to be included in the FAP benefit calculation, and if so, shall initiate recalculation of the Claimant's September 2011 FAP benefits to include these these expenses.
3. The Department shall issue a supplement to the Claimant for FAP benefits he 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:

