

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

IN THE MATTER OF:



Reg. No.: 20123533
Issue No.: 3002
Case No.: [REDACTED] 5
Hearing Date: November 10, 2011
County: Wayne (17)

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

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits effective 10/2011.

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 benefit recipient.
2. Claimant is part of a two person household that includes her and her spouse.
3. Claimant received the following income: \$108.76 in federal Supplemental Security Income (SSI), \$42/3 months in State of Michigan issued SSI, \$261/month in child support and \$106.49 in pension income.

4. Claimant's spouse received the following income: \$108.76 in federal SSI, \$42/3 months in State of Michigan issued SSI and \$446 in Retirement Survivors, Disability Insurance (RSDI).
5. Claimant's spouse pays \$103/month in child support.
6. On 9/20/11, DHS determined Claimant's FAP benefit issuance for 10/2011 as \$28.
7. The DHS 10/2011 FAP benefit determination was based on a household income of \$1454 and monthly child support payments of \$0.
8. Claimant's actual household income is \$1059/month and child support payments are \$103/month.
9. On 9/27/11, Claimant requested a hearing to dispute the 10/2011 FAP benefit determination.

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.

In the present case, Claimant disputed the FAP benefit issuance of \$28 for 10/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

Several household factors go into a FAP benefit determination. These factors include: group composition, group member income, rent and utility expenses, child support expenses, day care expenses and medical expenses. After discussions with DHS and Claimant, there were disagreements in only two areas, household income and child support payments.

Claimant testified that she received the following income: \$108.76 in federal SSI, \$14/month (averaged) in State of Michigan issued SSI, \$261/month in child support and \$106.49 in pension income. Claimant also testified that her spouse received the following income: \$108.76 in SSI, \$14/month (averaged) in State of Michigan issued SSI and \$446 in RSDI.

DHS did not dispute any of the above amounts and failed to establish that any other income should have been budgeted. Based on the above amounts, DHS should have budgeted \$1059 in unearned income. DHS budgeted \$1454 in income. Part of the discrepancy was explained by an error in budgeting Claimant's spouse's RSDI however there was some unidentified discrepancy because DHS budgeted more income than what could be explained by the RSDI budgeting error. It is found that DHS erred in determining Claimant's household income.

The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month are allowable child support payment expenses. BEM 554 at 4. It was not disputed that Claimant's spouse paid \$103/month in child support expenses. DHS contended the expense was not allowed because the payment was for an arrearage. DHS regulations clearly allow child support payment, even if paid for an arrearage. It is found that DHS erred in failing to budget Claimant's child support expenses. As DHS made two error in determining Claimant's FAP benefit eligibility for 10/2011, the FAP benefit determination is appropriately reversed.

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

did not act properly when determining Claimant's 10/2011 FAP benefit eligibility.

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. redetermine Claimant's eligibility for FAP benefits beginning 10/2011 based on a total household income of \$1059 as broken down above;
2. redetermine Claimant's eligibility for FAP benefits beginning 10/2011 based on child support payments by Claimant's spouse of \$103/month; and
3. supplement Claimant for any FAP benefits not received due to the DHS budgeting errors.



Christian Gardocki
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

CG/hw

cc:

