

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201267646  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: September 4, 2012  
County: Wayne (19)

**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 September 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Assistance Payment Supervisor.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

**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 is an ongoing recipient of FAP benefits.
2. On June 1, 2012, Claimant reapplied for FAP benefits after her existing FAP case closed, effective May 29, 2012, for failure to complete a redetermination.
3. On June 1, 2012, the Department sent Claimant a Notice of Case Action advising her that she was eligible for monthly FAP benefits of \$306.
4. After Claimant provided verification from the Social Security Administration (SSA) that her daughter was no longer receiving Retirement, Survivors and Disability

Insurance (RSDI), the Department recalculated Claimant's FAP budget and sent Claimant a June 5, 2012 Notice of Case Action, notifying her that her monthly FAP benefits were increased to \$367 effective June 1, 2012.

5. On July 31, 2012, Claimant filed a request for hearing, disputing the Department's actions.

### **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), and Department of Human Services 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 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.

Additionally, the Department testified that, after Claimant's FAP case closed, effective May 29, 2012, based on Claimant's failure to timely file her FAP redetermination, Claimant reapplied for FAP benefits on June 1, 2012. Initially, the Department sent Claimant a Notice of Case Action informing her that she was eligible for monthly FAP benefits of \$306 for June 1, 2012, ongoing. After Claimant advised the Department that her daughter had stopped receiving RSDI income in September 2011 and provided verification of this loss of income, the Department recalculated Claimant's FAP budget to remove the \$806 monthly RSDI benefits included as unearned income in the budget and sent Claimant a June 5, 2012 Notice of Case Action advising her that she was eligible for monthly FAP benefits of \$367 from June 1, 2012, ongoing. Based on the information provided, the Department properly calculated Claimant's monthly FAP benefits of \$367, the maximum benefit available to her FAP group size of two. BEM 556 (July 1, 2011), pp 1-6; RFT 260 (October 1, 2011), p 1.

In her hearing request and at the hearing, Claimant expressed concerns that the Department did not remove her daughter's RSDI income from the calculation of her FAP benefits for September 2011, ongoing, until she reapplied for FAP benefits on June 1, 2012, and sought to recover the benefits she was underissued for that time period. Supplements for underissued FAP benefits must be issued by the Department to a Claimant when the regular FAP issuances for prior months are less than the group is eligible to receive. BAM 406 (October 1, 2010), p 1. However, FAP supplements are not issued to correct underissuances caused by a client's failure to report. BAM 406, p 1.

In this case, Claimant credibly testified that she had provided notice to the Department that her daughter's RSDI benefits would end in September 2011 shortly after she had received the notice from the Social Security Administration and had called her worker at the time to advise her that she had submitted documentation showing the decrease in the household's income. The Department testified that it did not have Claimant's prior FAP file and could not review it to see if a copy of the notice was received. Based on Claimant's credible testimony, Claimant did timely report the loss of RSDI benefits for September 2011 to the Department. However, it does not appear that the Department processed the change. A Notice of Case Action sent to Claimant on October 24, 2011, increased Claimant's monthly FAP benefits \$2, but the budget included in the Notice showed that Claimant's daughter's RSDI income continued to be budgeted in the calculation of Claimant's monthly FAP allotment, contrary to the documentation Claimant had provided. Thus, the Department did not act in accordance with Department policy when it failed to remove Claimant's daughter's RSDI income from the group's FAP budget after Claimant reported this change to the Department. As a result, Claimant was underissued FAP benefits from September 2011, ongoing.

Supplements for underissued FAP benefits are limited to underissuances in the twelve months before the month in which the local office received a request for lost benefits

from the eligible group or the group requested a hearing to contest a negative action which resulted in a loss. BAM 406, p 2. In this case, when the Department recalculated Claimant's FAP budget in connection with her June 1, 2012 FAP application to remove the RSDI income, and Claimant was notified that she was eligible for monthly FAP benefits of \$367, Claimant expressed concerns to the Department regarding the FAP benefits she had been receiving since September 2011. Claimant contended that, because her income was the same in September 2011 as it was in June 2012, she should have been receiving monthly FAP benefits of \$367 since September 2011. Because the local office received a request for lost benefits from Claimant beginning in June 2012, the Department can issue supplements for FAP benefits Claimant was underissued for up to twelve months prior to June 2012. Thus, Claimant is eligible for a supplement for FAP underissuances from September 2011 ongoing.

**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 it failed to issue supplements to Claimant for FAP benefits she was underissued from September 2011 ongoing.

Accordingly, the Department's decision is  AFFIRMED  REVERSED for the reasons stated on the record and above.

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 budget for September 2011 to exclude Claimant's daughter's RSDI income;
2. Issue supplements to Claimant for FAP benefits she was eligible to receive, but did not, from September 1, 2011, ongoing; 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: September 13, 2012

Date Mailed: September 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 at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

ACE/hw

cc:

