

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

IN THE MATTER OF:



Reg. No.: 201272609
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: September 26, 2012
County: Wayne (15)

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 26, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly recalculate Claimant's Food Assistance Program (FAP) budget in accordance with the Hearing Decision issued in connection with Claimant's August 2, 2012, hearing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 2, 2012, a hearing was held concerning the Department's calculation of Claimant's monthly FAP benefits.
2. In a decision mailed August 10, 2012, the undersigned Administrative Law Judge reversed the Department and ordered the Department to recalculate Claimant's FAP budget for July 1, 2012 and August 1, 2012, ongoing.
3. The Department recalculated Claimant's FAP budget for August 2012 and increased Claimant's monthly FAP benefits from \$173 to \$197, effective August 1, 2012.

4. On August 24, 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 Hearing Decision from the August 2, 2012 hearing pointed out that (i) Claimant's unearned income was \$2556, less than the \$2558 indicated in the FAP budgets provided, and (ii) based on the figures the Department had for Claimant's property taxes of \$1193.93 and yearly homeowner's insurance policy premium of \$1649 and Claimant's testimony that she paid \$700 monthly for her home under a land contract, Claimant had greater housing expenses for July 2012 than the \$859.35 indicated by the Department in the July 2012 FAP budget. The Hearing Decision further pointed out that the Department had properly processed an increase in property taxes to affect August 2012 benefits.

Based on the foregoing, the Department was ordered to recalculate Claimant's FAP budget for July 2012 and for August 2012, ongoing. In response to the Hearing Decision, the Department recalculated Claimant's FAP budget for August 1, 2012, ongoing and determined that Claimant was eligible for \$197 in monthly FAP benefits for August 2012 ongoing. Claimant filed a hearing request concerning the recalculated FAP benefits.

At the hearing, the Department presented a FAP budget showing the recalculation of Claimant's FAP benefits for August 2012 ongoing following the Hearing Decision. The FAP budget continued to show unearned income of \$2558, even though the sum of all the income sources relied on by the Department was \$2556. The Department did not act in accordance with Department policy when it calculated Claimant's FAP budget, relying on this incorrect figure for Claimant's August 2012 ongoing budget.

Further, the Department testified that it did not recalculate Claimant's July 2012 budget because Claimant had provided verification of her increased property taxes in July and that information resulted in an increase in FAP benefits for August 2012 ongoing benefits. However, the August 10, 2012 Hearing Decision also pointed out that the figure the Department used for Claimant's monthly housing expenses for July 2012 was less than the sum of the homeowner's insurance policy premium, Claimant's monthly land contract payment, and the property taxes (before the increase submitted to the Department on July 3, 2012). Therefore, the Department was required to also recalculate Claimant's July 2012 FAP budget to take into account (i) the corrected amount for the unearned income and (ii) the corrected monthly housing expenses.

At the hearing, the Department testified, and Claimant confirmed, that the verification it received from Claimant in December 2011 regarding Claimant's homeowner's insurance premium indicated that the premium was less than the amount it had used in the FAP budgets. The revised FAP budgets may take into account the corrected premium in determining Claimant's monthly housing expenses.

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

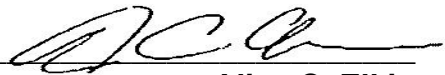
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did not act properly when it recalculated Claimant's FAP budget for July 2012 ongoing.

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 July 2012 ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2012, 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: 10/4/2012

Date Mailed: 10/4/2012

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:

