

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-9754
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: December 1, 2011
County: Wayne (18)

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 December 1, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED] Eligibility Specialist.

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 FAP recipient, receiving \$16 in FAP benefits each month.
2. Claimant has a group size of one.
3. On October 18, 2011, Claimant filed a hearing request, disputing the Department's calculation of her FAP benefits.

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.

Additionally, Claimant applied for FAP assistance on August 2, 2011. At the hearing, Claimant sought to determine whether the Department properly calculated her FAP allotment. The Department produced the July 2011 FAP budget used in calculating Claimant's FAP allotment. Claimant verified that she had no shelter or heat and utility expenses and she was the only member of her FAP group. The Department testified that Claimant's income was based on biweekly disability payments made to Claimant by her employer of \$700.80 on July 15, 2011, and \$700.80 on July 29, 2011, and Claimant confirmed these amounts. The budget showed total gross income of \$1506, which was calculated in accordance with Department policy. BEM 505.

In this case, the Department classified the disability payments received by Claimant as unearned income. Payments an individual receives when absent from work due to illness or injury might be earned or unearned income. BEM 500. Regular wages received while on sick leave are considered earned income. BEM 500. The gross amount of other disability payments, such as sick and accident insurance payments, are considered unearned income. BEM 500. In FAP budgets, gross countable earned income is reduced by a 20% earned income deduction. BEM 550.

The Department testified that the payments to Claimant in this case were paid by Claimant's employer and that it had retrieved the amount of these payments from earning statements it accessed through The Work Number, a program available to the Department through which it can access payments reported by employers to its employees. No evidence was provided at the hearing that the Department considered whether these payments were actually regular wages received by Claimant while on leave from her employer, which would make them earned income under BEM 500. Because the Department failed to consider whether the disability payments Claimant received should have been classified as earned income, entitling Claimant to an earned income deduction in her FAP budget, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget.

Further, because all FAP recipients are entitled to the heat and utility standard, even if they have no obligation to pay such expenses and provide no verification of the same, BEM 554, the Department did not act in accordance with Department policy when it failed to include the heat and utility standard in the calculation of Claimant's FAP budget.

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 calculated Claimant's monthly FAP allotment.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and 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. Begin recalculating Claimant's FAP budget in accordance with Department policy;
2. Notify Claimant in writing of the Department's decision in accordance with Department policy; and

3. Issue supplements, if any, for FAP benefits Claimant was entitled to receive but did not in accordance with Department policy from August 2, 2011, ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2011

Date Mailed: December 13, 2011

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/ctl

cc: 
Wayne County DHS (18)/1843

A. 
File Elkin

