

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

IN THE MATTER OF:



Reg. No.: 201278423
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2013
County: Oakland (04)

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 January 7, 2013, 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 calculate Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. In an August 21, 2012, Notice of Case Action, the Department notified Claimant that he was eligible for monthly FAP benefits of \$76 effective October 1, 2012, ongoing.

3. On September 7, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the amount of 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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 (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 (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.

Additionally, in an August 21, 2012 Notice of Case Action, the Department notified Claimant that his monthly benefits would decrease to \$76 beginning October 1, 2012. At the hearing, the Department testified that the decrease was due to a reduction in

Claimant's medical expense deduction. The Department further testified that Claimant advised the Department on September 20, 2012 that he had moved, and because he had not verified his housing expenses, the Department removed his shelter expenses from his FAP budget, reducing his monthly FAP benefits to \$16 effective October 1, 2012.

The Department produced Claimant's FAP budget for October 2012. The budget showed that Claimant received gross Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1146. Claimant contended that he received less than \$1146 in RSDI benefits. The Department testified that it relied on a June 21, 2012, award letter from the SSA that showed that, beginning December 2011, Claimant received gross monthly RSDI benefits of \$1146 with \$0 deducted for medical premiums. During the course of the hearing, the Department also testified that it had (i) a March 29, 2012, Single On-Line Query (SOLQ) report showing that Claimant received \$1146 in gross monthly RSDI benefits but the \$99.90 Part B Medicare premium was no longer paid by the State beginning March 1, 2012, and (ii) an April 15, 2012, SSA award letter indicating that Claimant was issued an overpayment totaling over \$1000 and his gross RSDI benefits would continue to be \$1146 until the SSA began collecting the overpayment.

The Department is required to verify income when program policy requires a change to be budgeted. See BEM 503 (October 1, 2012), pp 29-30. In this case, the Department testified that it relied on the information in the June 21, 2012, SSA letter, which was the most recent it had. However, in light of the inconsistencies present in the Department's file concerning Claimant's gross monthly RSDI income, the Department should have run a current SOLQ when rebudgeting his October 2012 FAP benefits. See BEM 503, p 30 (requiring that the Department use available electronic methods such as consolidated inquiry or SOLQ to verify unearned income). If the SOLQ shows that the SSA has been deducting a previous overpayment or ineligible payment from RSDI benefits Claimant has been receiving since October 1, 2012, the amounts being recovered are excluded as income. BEM 500 (October 1, 2012), p 4.

Because Claimant is a Senior/Disabled/Veteran (SDV) member, he is eligible for a deduction for verified medical expenses he incurred in excess of \$35. BEM 554 (October 1, 2012), p 1. While Claimant did not verify any medical expenses for October 2012 ongoing, if the SOLQ shows that the SSA deducted Medicare Part B premiums from Claimant's RSDI benefits, such expenses over \$35 should be included in Claimant's medical expense deduction.

The Department also testified that Claimant's shelter expenses were excluded from his October 2012 ongoing FAP budget because Claimant did not timely verify shelter expenses when he reported a change of address on September 20, 2012. While these changes to Claimant's FAP budget occurred after Claimant filed his request for hearing on September 17, 2012, and the hearing generally addresses only those Department actions taken prior to the filing of the hearing request, it is noted that the Department testified on the record in this case that because it received the shelter verification on

October 10, 2012, Claimant's shelter expenses should have been included in the calculation of Claimant's FAP budget for November 1, 2012, ongoing.

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 properly improperly calculated Claimant's benefits for: AMP FIP FAP MA SDA CDC.

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 did not act properly.

Accordingly, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

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 monthly FAP benefits for October 1, 2012, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from October 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: January 14, 2013

Date Mailed: January 14, 2013

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:

