

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312408
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 7, 2013
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 January 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly calculate Claimant's monthly 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. In connection with a FAP redetermination, the Department recalculated Claimant's FAP benefits.
2. On November 7, 2012, the Department notified Claimant that, effective November 1, 2012, her monthly FAP benefits decreased from \$635 to \$28 per month.
3. On November 19, 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 Claimant's reduced FAP benefits were due to (i) the removal of her daughter Alysha from her FAP group as an ineligible student; (ii) the FAP group's increased income; and (iii) a decrease in monthly housing expenses.

█████'s Student Status

Clients age 18 through 49 are not eligible for FAP benefits if they are enrolled half-time or more in (i) a vocational, trade, business or technical school that normally requires a high school diploma or an equivalency certificate or (ii) a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (October 1, 2012), pp 2-3. Students are eligible for FAP benefits only if one of the conditions in BEM 245, pp 3-4 applies, which includes (i) the student's employment for at least 20 hours per week and payment for such employment or (ii) the student's participation in state- or federally-funded work study program. A review of █████ paystubs from her employment shows that she worked for less than 20 hours per week on average during the period at issue. While Claimant testified at the hearing that she subsequently became aware that █████ participated in a work study program, she admitted that she had not indicated █████ participation in the program in the redetermination she submitted to the Department. Based on the evidence available to the Department at the time it processed the redetermination, the Department acted in accordance with Department policy when it concluded that █████ was an ineligible student for FAP purposes and excluded her from Claimant's FAP group. BEM 212 (November 1, 2012), p 8.

Calculation of FAP Group's Income

The Department testified that gross monthly income for Claimant, her husband, and █████ was used to calculate the group's gross monthly earned income of \$2261. However, because █████ was a student who did not meet the criteria in BEM 245 for student FAP eligibility, she was not a FAP group member and her income and assets should not have been considered in determining the group's eligibility. BEM 212 (November 1, 2012), pp 7-8. Thus, the Department did not act in accordance with Department policy when it considered █████ income in calculating Claimant's FAP budget.

Furthermore, while the Department testified regarding the paystubs it used to calculate Claimant's and her husband's gross earned income, it was unable to satisfy its burden of showing that it calculated those two parties' income in accordance with Department policy. See BEM 505 (October 1, 2010), pp 4-7.

Rent Amount

At the hearing, the Department testified that it considered Claimant's monthly housing expenses of \$200 when it calculated Claimant's excess shelter deduction. Claimant's husband credibly testified, however, that he was the sole tenant listed on the lease and that his monthly housing obligation was \$900, but he advised the Department during his redetermination that, pursuant to an agreement with his mother who lived in the home with him, he was responsible for only \$200 of the rental expense at the time of the redetermination.

The Department must allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense and must **not** prorate the shelter expense even if the expense is shared. BEM 554 (October 1, 2012), p 10. Shelter expenses do

not have to be paid to be allowed. BEM 554, p 10. Thus, the Department did not act in accordance with Department policy if the verification of Claimant's shelter expenses showed that the group's rental obligation was \$900, even if the expense was shared.

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 calculated Claimant's FAP benefits.

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 benefits for November 1, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2012, ongoing;
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 10, 2013

Date Mailed: January 10, 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:

