

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313919
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 10, 2013
County: Wayne (57)

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 10, 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, and [REDACTED], Lead Worker.

ISSUE

Due to excess income, 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 connection with a FAP redetermination, the Department recalculated Claimant's FAP budget based on income from Claimant's new employment.
3. On November 15, 2012, the Department notified Claimant that she was approved for monthly FAP benefits of \$16 for December 1, 2012 ongoing.
4. On November 29, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the calculation 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, after reviewing the FAP budget used by the Department to calculate Claimant's monthly FAP benefits on the record, Claimant testified that her only concern was the Department's calculation of her gross monthly earned income.

In determining a group's FAP benefits, the Department must determine a best estimate of income expected to be received by the group during a specific month. BEM 505 (October 1, 2010), p 4. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p 4. An employee's wages include bonuses. BEM 501 (December 1, 2011), p 5).

The Department testified that Claimant's gross earned income on the FAP budget was based on the following paystubs she provided: \$899.46 paid on October 5, 2012; \$748.62 paid on October 19, 2012; and \$900.06 paid on November 2, 2012. Based on these biweekly payments, the Department calculated Claimant's gross monthly earned income of \$1826 in accordance with Department policy. See BEM 505 (October 1, 2010), p 6. At the hearing, Claimant contended that the Department should not have considered the employment income she received for overtime and shift premiums and for monthly incentives she received because these amounts fluctuated. However, as pointed out by the Department, each of the paystubs Claimant submitted showed overtime and incentive payments. While Claimant testified that the overtime and shift premiums and incentives were not guaranteed income, she acknowledged that she continued to receive incentives in future paychecks and that she sometimes received additional income for overtime and shift premiums. Because there was no evidence that the overtime and incentives Claimant received during the pay periods considered were unusual and not reflective of the normal, expected pay amounts, the Department acted in accordance with Department policy when it considered the paystubs provided by Claimant, including incentives and overtime and shift premium pay indicated in those paystubs, in prospecting her future income.

It is noted that, although the Notice of Case Action indicates that Claimant's net income is \$762 and the FAP budget shows net income of \$893, Claimant is eligible for monthly FAP benefits of \$16 in either case. See RFT 260 (December 1, 2012), pp 7-8. It appears from a review of the evidence that the gross income calculation on the Notice involved only the October 5, 2012 and October 19, 2012 employment income. Because the resulting FAP benefits to Claimant were not affected, the Department's use of an additional paystub to determine Claimant's gross monthly income in the FAP budget is harmless in this case.


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, due to excess

income, the Department properly improperly calculated Claimant's monthly FAP benefits.

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.


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

Date Signed: January 15, 2013

Date Mailed: January 15, 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

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cc:

