

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

IN THE MATTER OF:



Reg. No.: 201315880
Issue No.: 2026; 3002
Case No.: [REDACTED]
Hearing Date: January 16, 2013
County: Oakland (02)

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 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's benefits for Food Assistance Program (FAP)?

Did the Department properly provide coverage to Claimant's family for Medical Assistance (MA)?

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 checked="" 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 employment.

3. On November 26, 2012, the Department notified Claimant that he was approved for monthly FAP benefits of \$16 for November 1, 2012 to November 30, 2012, and \$66 for December 1, 2012 ongoing.
4. On December 4, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the Department's actions concerning his FAP and MA cases.

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 AACCS, 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 his request for hearing, Claimant indicated he wished to address his FAP and MA cases.

Reduction in FAP Benefits

The Department testified that, in connection with Claimant's FAP redetermination, the Department recalculated Claimant's FAP benefits. In a November 26, 2012, Notice of Case Action, the Department informed Claimant that he was eligible for monthly FAP benefits of \$16 for November 2012 and \$66 for December 2012 ongoing.

The Department did not provide a copy of the FAP budget at the hearing. Therefore, the figures used to calculate Claimant's FAP budget as indicated on the Notice of Case Action were reviewed. The Department testified that the FAP group consisted of Claimant's two minor children because Claimant and his wife were disqualified because they did not meet the citizenship criteria. See BEM 225 (January 1, 2012), pp 3-9. Claimant did not dispute this conclusion. Claimant verified that his monthly shelter expenses were \$720, as indicated in the Notice. The Notice also shows that the Department applied the \$148 standard deduction applicable to a FAP group size of two and the \$575 heat and utility standard deduction available in all FAP cases. RFT 255 (October 1, 2012), p 1.

The Notice shows that the Department considered earned income of \$1252 and self-employment income of \$773 in calculating Claimant's FAP benefits. At the hearing, the Department acknowledged that Claimant no longer received self-employment income as of November 2012 and self-employment income should not be included in the calculation of Claimant's FAP budget for November 1, 2012, ongoing. Further, the Department testified that Claimant's employment income was based on pay information provided by the employer as follows: (i) \$1064.13 paid on October 4, 2012; (ii) \$993.09 paid on October 18, 2012; and (iii) \$1434.86 paid on November 1, 2012. 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 and 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, pp 4-5. An employee's wages include bonuses. BEM 501 (December 1, 2011), p 5). Claimant explained that he sometimes received overtime pay. However, Claimant's November 1, 2012, pay was significantly higher than Claimant's other biweekly pay, which the Department acknowledged at the hearing. Accordingly, the Department should have discarded it in the calculation of his monthly gross income from employment. Based on the foregoing, the Department did not act in accordance with Department policy when it calculated Claimant's gross monthly earned income and, consequently, his monthly FAP benefits. Furthermore, the Department did not satisfy its burden of showing that it calculated Claimant's \$16 in FAP benefits for November 2012 in accordance with Department policy.

MA Case

In his request for hearing and at the hearing, Claimant also expressed concerns about the MA coverage he and his family received, stating that providers had told him that he was not covered. The Department did not address Claimant's MA issue in its hearing

summary. At the hearing, the Department confirmed that the family had MA coverage, with the children receiving coverage under Other Healthy Kids for Emergency Medical Only (EMO) services and Claimant and his wife each receiving MA coverage with a monthly deductible of \$1958. The Department did not include an MA budget showing the calculation of the deductible. Thus, the Department failed to satisfy its burden of showing that it calculated Claimant's and his wife's deductibles in accordance with Department policy.

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 improperly calculated Claimant's monthly FAP benefits and failed to satisfy its burden of showing that it provided Claimant with the proper MA coverage.

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 FAP budget for November 1, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin recalculating Claimant's and his wife's MA coverage and deductible amount, if applicable, for November 1, 2012, ongoing in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from November 1, 2012, ongoing;
4. Provide MA coverage to Claimant and his wife that they are eligible to receive from November 1, 2012, ongoing; and
5. 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 24, 2013

Date Mailed: January 24, 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/cl

cc:

