

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

IN THE MATTER OF:



Reg. No.: 201315960
Issue No.: 3002
Case No.:
Hearing Date: February 28, 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 February 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Specialist.

ISSUE

Did the Department properly calculate Claimant's monthly Food Assistance Program (FAP) benefits for December 1, 2012, ongoing?

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's was an ongoing recipient of FAP benefits.
2. In connection with his November 2012 redetermination, Claimant notified the Department of his new employment.
3. The Department recalculated Claimant's FAP budget to take into consideration his employment income.
4. On November 21, 2012, the Department notified Claimant that, effective December 1, 2012, he would receive monthly FAP benefits of \$170.
5. On December 4, 2012, Claimant filed a hearing request, disputing the calculation of his FAP allotment.

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 ACS, 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, in connection with Claimant's FAP redetermination, the Department recalculated Claimant's FAP budget to include his earned income and determined that Claimant was entitled to monthly FAP benefits of \$170, effective December 1, 2012, ongoing. Because the Department did not provide a copy of the FAP budget, the information shown on the November 21, 2012 Notice of Case Action informing Claimant

of his reduced FAP benefits was reviewed at the hearing. In calculating Claimant's gross monthly earned income of \$1225, the Department testified that it considered the following employment income, paid biweekly: (1) \$600 paid on November 8, 2012, and (2) \$540 paid on October 25, 2012 (based on the year to date information from the two paystubs provided). To determine the monthly amount for biweekly income, average biweekly pay must be multiplied by 2.15. BEM 505 (October 1, 2010), p 6. Claimant's average biweekly pay multiplied by 2.15 resulted in gross monthly earned income of \$1225, consistent with the Department's calculation.

At the hearing, Claimant verified that there were two members in his FAP group and neither was a senior/disabled/veteran (SDV) member. Claimant's FAP budget included a \$148 standard deduction available to Claimant's FAP group size of two. RFT 255 (October 1, 2012), p 1. Claimant was also entitled to an earned income deduction equal to 20% of his earned income (or \$245 in this case). BEM 550 (February 1, 2012), p 1. The Department also considered Claimant's monthly rent of \$18 (the amount he was obligated to pay for his Section 8 housing), which Claimant verified, and the standard heat and utility deduction of \$575 available to all FAP recipients. BEM 554 (December 1, 2012), p 19; RFT 255, p 1.

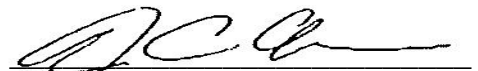
Based on the foregoing figures and a FAP group size of two, the Department acted in accordance with Department policy when it calculated Claimant's net income of \$655 and monthly FAP benefits of \$170 effective December 1, 2012, ongoing. RFT 260 (December 1, 2012), p 6.

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 it calculated Claimant's FAP budget.
 did not act properly when

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.



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

Date Signed: 3/4/2013

Date Mailed: 3/4/2013

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:

