

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201316262
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 14, 2013
County: Wayne (41)

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 14, 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, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly calculate Claimant's 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. Claimant is an ongoing FAP recipient.
2. In connection with Claimant's FAP redetermination, the Department recalculated Claimant's FAP budget.
3. The Department found that Claimant was eligible for ongoing monthly FAP benefits of \$16.
4. On December 10, 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, in connection with Claimant's FAP redetermination, the Department concluded that Claimant was eligible for monthly FAP benefits of \$16 effective December 1, 2012. At the hearing, the Department provided a copy of Claimant's FAP budget showing the calculation of Claimant's FAP benefits. The Department testified

that Claimant's unearned income of \$1053 was based on Claimant's gross monthly pension and veteran's benefits he received in December 2012, even though the Department provided documentation pertaining to increased benefits effective January 1, 2013. Claimant verified the gross monthly unearned income of \$1053. Claimant also verified that he was the sole member of his FAP group. The Department's budget shows that Claimant received the \$148 standard deductible applicable to FAP groups composed of a single member. RFT 255 (October 1, 2012), p 1.

Claimant also received an excess shelter deduction of \$161. The Department testified that this figures was based on Claimant's annual shelter expenses of \$51 for winter taxes on his residence and \$751.76 for summer taxes on his residence. Taking into consideration the total annual taxes of \$802.76, the monthly tax expense is \$66.90. This monthly tax expense, plus the \$575 monthly heat and utility standard deduction applicable to all FAP cases, results in an excess shelter expense greater than \$161. See RFT 255, p 1; BEM 556 (July 1, 2011), pp 4-5. Thus, the Department has failed to show that it calculated the excess shelter deduction in accordance with Department policy.

At the hearing, Claimant also contended that he had homeowner's insurance premiums that had not been included in his FAP budget. However, the Department established that it requested verification of that expense in the Verification Checklist sent to Claimant on December 4, 2012, but Claimant had failed to provide verification asked at that time. Accordingly, the Department acted in accordance with Department policy when it did not include the unverified homeowner's insurance premium in the calculation of Claimant's monthly shelter expenses in his December 2012 ongoing FAP budget. BEM 554 (October 1, 2012), pp 10-11.

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 it calculated Claimant's FAP budget based in its failure to satisfy its burden of showing that it calculated the excess shelter deduction in accordance with Department policy.

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 budget for December 2012 ongoing 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 December 1, 2012, ongoing; and
- 3.
4. 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 22, 2013

Date Mailed: January 22, 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:

