

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201316773
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 17, 2013
County: Wayne (17)

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 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's daughter and Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's 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. Claimant is an ongoing recipient of FAP benefits.
2. In connection with Claimant's November 2012, FAP redetermination, the Department recalculated Claimant's FAP benefits.
3. In a November 29, 2012, Notice of Case Action, the Department notified Claimant that she was eligible for \$265 in monthly FAP benefits effective December 1, 2012, ongoing, based on a FAP group size of 2 and a budget that excluded any consideration of housing expenses.

4. On December 5, 2012, Claimant filed a request for hearing disputing the Department's calculation of her FAP benefits.

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, in connection with Claimant's November 2012 FAP redetermination, it recalculated Claimant's monthly FAP benefits. The Department did not provide a FAP budget showing the calculation of Claimant's FAP benefits. Therefore, the figures and information on the November 29, 2012 Notice of Case Action were reviewed at the hearing. Two issues arose in reviewing the information used by the Department in calculating Claimant's FAP budget: the exclusion of Claimant's daughter, [REDACTED] as an ineligible student from Claimant's FAP group and the exclusion of monthly shelter expenses.

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 being employed for at least 20 hours per week and paid for such employment. Based on the information on the redetermination completed by Claimant, and [REDACTED] paystubs submitted at the time of the redetermination, the Department properly concluded that [REDACTED] was a full-time college student employed for less than 20 hours weekly. Therefore, the Department acted in accordance with Department policy when it excluded her from Claimant's FAP group. BEM 212 (November 1, 2012), pp 7-8.

The Department testified that the calculation of Claimant's FAP benefits did not include any shelter expenses because none were indicated on the redetermination. However, the Department verified upon review of the redetermination that Claimant had indicated that she had monthly housing expenses of \$356. The Department could not establish that it requested verification of these expenses. Therefore, Claimant is entitled to inclusion of housing expenses in her FAP budget upon her verification of these expenses. See BEM 554 (October 1, 2012), pp 10, 11. At the hearing, the Department agreed to recalculate Claimant's budget as of November 1, 2012, ongoing to include shelter verifications if Claimant submitted timely verifications.

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 excluded Claimant's daughter from her FAP group based on the evidence it had at the time of the November 2012 FAP redetermination.

did not act properly when it did not include Claimant's shelter expenses in the calculation of her FAP budget.

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 November 1, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision, upon Claimant providing verification of shelter expenses in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from November 1, 2012, ongoing; and
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 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:

