

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317556
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 23, 2013
County: Wayne (19)

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 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly decrease 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 a FAP redetermination, the Department recalculated Claimant's FAP budget to include employment income that was not previously budgeted.
3. On October 18, 2012, the Department sent Claimant a Notice of Case Action informing him that his monthly FAP benefits would decrease to \$468 for October 2012 and to \$584 for November 2012 ongoing.
4. On December 17, 2012, Claimant filed a request for hearing disputing the Department's actions.

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 AACS, 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 for October 1, 2012, ongoing. The Department testified that, due to the inclusion of Claimant's employment income which had not been included in prior budgets, Claimant was eligible for FAP benefits of \$468 for October 2012 and \$584 for November 1, 2012, ongoing.

At the hearing, the Claimant's FAP budget for October 2012 and November 1, 2012, ongoing were reviewed. Claimant verified his weekly income and his group size of five. The Department calculated Claimant's gross monthly earned income in accordance with Department policy and applied the standard deduction he was eligible to receive. BEM 505 (October 1, 2010), p 6; RFT 255 (October 1, 2012), p 1. However, the October 2012 FAP budget did not include the earned income deduction that Claimant was eligible to receive. BEM 556 (July 1, 2011), p 3. Because the Department was unable to provide any valid explanation as to why Claimant did not receive the earned income deduction in his October 2012 FAP budget, particularly where he received it in the November 2012 ongoing FAP budget, which had the same employment income relied on in the October 2012 FAP budget, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when calculated Claimant's net income.

A review of the FAP budgets for October 2012 and November 2012 ongoing also showed that there were no housing expenses included in the calculation of Claimant's excess shelter deduction. Claimant testified that he provided a copy of his lease, which showed monthly rent of \$750, in connection with his redetermination. At the hearing, the Department acknowledged that Claimant's monthly rent should have been included in the calculation of his monthly excess shelter deduction and, consequently, his monthly FAP benefits, and agreed to include those expenses in a recalculation of Claimant's FAP budgets for October 1, 2012 ongoing as long as Claimant re-verified those expenses.

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

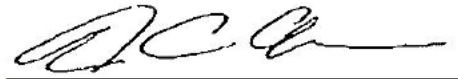
- did act properly when .
 did not act properly when it calculated Claimant's FAP budget for October 2012 and November 2012 ongoing.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to AND REVERSED IN PART with respect to .

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 October 2012 and November 2012 ongoing consistent with this Hearing Decision and in accordance with Department policy, including requesting any required verifications of shelter expenses;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not for October 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 30, 2013

Date Mailed: January 30, 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:

