

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201321405  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: February 13, 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 February 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED] Assistance Payment Supervisor.

**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 was an ongoing recipient of FAP benefits.
2. On October 3, 2012, the Department sent Claimant a Notice of Case Action notifying her of an increase in her FAP benefits to \$161 effective November 1, 2012, ongoing. The Notice also indicated that the Department became aware that Claimant was underissued benefits totaling \$24 for the period between December 1, 2011 and April 30, 2012, and a lump sum payment of \$24 would be issued to her on October 3, 2012.

3. On December 8, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$151 effective January 1, 2013, based on an increase in the household's income. The Notice also indicated that the Department underissued FAP benefits for December 2012 and \$2 would be issued on December 8, 2012.
4. On January 7, 2013, Claimant failed 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, Claimant requested a hearing concerning changes in her FAP budget addressed in Notices of Case Action dated October 3, 2012 and December 8, 2012, which affected FAP benefits for November 2012, ongoing. Claimant's FAP budgets for November 2012, ongoing and December 2012, ongoing were reviewed at the hearing. Claimant's husband did not dispute the income and rent figures used by the Department and verified that the FAP group consisted of two members. He testified that his sole issue concerning the FAP budget was the Department's calculation of the medical expense deduction.

Because Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a deduction for verified medical expenses she incurred in excess of \$35. BEM 554 (October 1, 2012), p 1. Claimant's November 2012 FAP budget showed a medical expense deduction of \$201, and her December 2012, ongoing, FAP budget showed a medical expense deduction of \$206. The Department testified that in calculating Claimant's November 2012 medical deduction, it considered the following ongoing medical expenses for Claimant: (i) Part B Medicare premiums of \$99.90, (ii) hospitalization insurance premiums of \$123.62, and (iii) prescription expenses of \$6.67 and \$5.90. The sum of these figures, less the \$35 offset, results in the \$201 medical deduction used in the November 2012 budget. The Department testified that the \$5 December 2012 increase in Claimant's Medicare Part B premium to \$104.90 resulted in an increase in the medical expense deduction to \$206.

At the hearing, Claimant's husband contended that the Department excluded additional one-time medical expenses he had documented in their March 2012 redetermination, totaling \$716.87, and consisting of the following: (i) \$174 dental bill for services incurred on March 23, 2011, (ii) \$120 dental bill for services incurred on April 12, 2011, (iii) \$217 dental bill for services incurred on November 8, 2011, and (iv) \$199.90 for eyeglasses purchased on February 12, 2012.

BEM 554 provides that FAP groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period, with the expense considered in the first benefit month the change can affect. BEM 554 (October 1, 2012), p 7. However, the medical bill cannot be overdue, which means that the bill is currently incurred (for example, in the same month, or ongoing) or currently billed (the client received the bill for the first time for a medical expense provided earlier and the bill is not overdue). BEM 554, p 9.

In this case, the dental expenses at issue were all incurred, billed and paid in 2011 but not reported or verified until March 2012 during the redetermination. Similarly, the eyeglass expense was incurred and billed in February 2012 but not reported and verified until March 2012. Because the bills were not currently incurred or currently

billed, the Department acted in accordance with Department policy when it did not consider those expenses in the calculation of Claimant's medical expense deduction.

Furthermore, while one-time medical expense can be averaged over the balance of a benefit period, the current benefit period is April 1, 2012 to March 31, 2013, and all the expenses at issue were incurred in the prior benefit period. As such, they could not be applied towards the calculation of the medical expense for the current benefit period. See BEM 554, p 7 (permitting one-time medical expenses to be averaged over the balance of *the benefit period*) (emphasis added). A hearing is only available with respect to a client's current level of FAP benefits *within the benefit period*. BAM 600, p 4.

**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 medical expense deduction for her 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: 2/15/13

Date Mailed: 2/15/13

**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:

