

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323741
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 28, 2013
County: Wayne (15)

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 Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On January 17, 2013, Claimant or Claimant's AHR filed a hearing request, protesting the Department's calculation of her FAP benefits from September 2012 ongoing.

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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, in her hearing request, Claimant alleged that the Department had been improperly calculating her FAP benefits since September 2012. Although the Department notified Claimant of a reduction in FAP benefits in a September 10, 2012

Notice of Case Action and Claimant requested a hearing on January 17, 2013, more than 90 days after the action, because a client can request a hearing concerning the amount of her FAP benefits at any time and the Department can be ordered to remedy any underissuances due to Department error in the calculation of benefits, jurisdiction in this case was established. See BAM 600 (February 1, 2013), p 4; BAM 406 (October 1, 2010), pp 2-3.

In her hearing request, Claimant expressed concern that the Department had included the adoption subsidy she received on behalf of [REDACTED], her adopted son/biological grandson, in her unearned income. Adoption subsidies are excluded from the calculation of a client's income for FAP purposes. BEM 503 (November 1, 2012), pp 2-3. However, the Department testified that Claimant's \$555 monthly adoption subsidy was not included in the calculation of Claimant's unearned income. The September 10, 2012 Notice of Case Action showed that the calculation of Claimant's October 2012, ongoing, FAP benefits was based on \$1004 in gross monthly unearned income, which the Department testified was based on the sum of (i) \$194 in gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits received by [REDACTED] and (ii) \$810 in gross monthly RSDI benefits received by Claimant. Claimant verified that that the RSDI amounts used by the Department were accurate as of October 2012. Because the unearned income did not include the adoption subsidy and was based only on the RSDI income received by Claimant and [REDACTED], the Department acted in accordance with Department policy when it calculated Claimant's unearned income.

The remaining figures shown on the Notice of Case Action were reviewed with Claimant. Claimant verified that she and [REDACTED] were the only two members of the FAP group. Thus, the Department properly applied the \$148 deduction available to a group size of two. RFT 255 (October 1, 2012), p 1. Claimant testified that her only shelter expenses were her property taxes, and the Department credibly testified that, based on documentation Claimant provided with her redetermination, her monthly shelter expenses were \$184.55. Although Claimant presented evidence of increased property tax expenses at the hearing, the Department credibly testified that Claimant had not provided this information prior to the hearing. Thus, the Department would be required to consider these increased expenses to affect future benefits, but not for prior months. See BAM 220 (November 1, 2012), p 8. The Department also properly applied the \$575 standard heat and utility deduction available to all FAP recipients to Claimant's case. BEM 554 (October 1, 2012), pp 11-17.

Based on the foregoing figures and information, the Department calculated Claimant's net income of \$524 and monthly FAP benefits of \$209 for October 2012, ongoing, in accordance with Department policy. BEM 556 (July 1, 2011); RFT 260 (December 1, 2012), p 5. Claimant verified that, effective January 1, 2013, she and [REDACTED] received an increase in RSDI benefits, with [REDACTED] receiving \$198 in monthly RSDI income and Claimant receiving \$824 in monthly RSDI income. This change in income would result in a reduction in monthly FAP benefits to \$201 effective January 1, 2013, consistent with the Department's testimony. BEM 556; RFT 255, p 5.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess income, the Department properly calculated Claimant's benefits for: AMP FIP FAP MA SDA CDC.

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 did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.



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

Date Signed: 3/7/2013

Date Mailed: 3/7/2013

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.

201323741/ACE

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:

