

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201324906
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: March 4, 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 March 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for January 1, 2013, ongoing?

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. In connection with a January 2013 increase in Claimant's household's benefits from Retirement, Survivors and Disability Insurance (RSDI) benefits, the Department recalculated Claimant's FAP budget.
3. On December 8, 2012, the Department sent Claimant a Notice of Case Action advising her that her monthly FAP benefits would be reduced to \$16 effective January 1, 2013.
4. On January 23, 2013, 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 December 8, 2012 Notice of Case Action sent to Claimant notified her that her monthly FAP benefits would be reduced to \$16 beginning January 1, 2013.

At the hearing, the Department testified that Claimant's decreased FAP benefits were due to an increase in RSDI benefits, and a correction in the medical expense deduction Claimant was eligible to receive. Although the Notice of Case Action sent to Claimant showed monthly gross RSDI income of \$1120, the Department produced a FAP budget at the hearing showing that it recalculated Claimant's FAP benefit allotment for January 1, 2013, ongoing, to take into account a corrected amount in the RSDI benefits Claimant received. Claimant verified the amount of her gross monthly RSDI benefits of \$1113, as shown on the FAP budget, and her FAP group size of one. A review of the FAP budget shows that the Department properly applied the \$148 standard deduction applicable to Claimant's FAP group size of one and the \$575 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 1, 2012), p 1; BEM 554 (October 1, 2012), pp 11-12. The Department testified that it based Claimant's monthly shelter expenses of \$238.77 on the verified information it had on file showing annual homeowner's insurance premiums of \$605, winter property taxes of \$423.44, and summer property taxes of \$1836.70. The Department properly calculated Claimant's monthly housing expenses based on the foregoing figures.

Because Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a medical deduction for verified medical expenses over \$35. BEM 554, pp 6-9. At the hearing, the Department credibly testified that, in updating Claimant's FAP budget, it removed the \$103 medical expense deduction that had been erroneously included in Claimant's previous budget because the expense was unverified. The Department testified that, in determining Claimant's medical expense for January 1, 2013, ongoing, it considered the \$48.20 in Part D Medicare premium that was deducted from Claimant's RSDI income as an ongoing medical expense. Claimant's Part D premium of \$48 (rounded down in accordance with Department policy) less \$35 results in a medical expense deduction of \$13, as indicated on the FAP budget. See BEM 556 (July 1, 2011), p 3. Thus, the Department acted in accordance with Department policy when it calculated Claimant's medical expense deduction. Although Claimant testified that she had additional medical expenses, she acknowledged at the hearing that she had not presented documentation concerning such medical expenses to the Department prior to the hearing. Likewise, Claimant testified that she had updated property tax and homeowner's insurance premium documentation, but acknowledged that she had not provided this to the Department prior to the hearing. The Department is required to consider verified expenses in accordance with Department policy to affect *future* FAP budgets. See BAM 220 (November 1, 2012), p 8.

A review of the FAP budget based on the information before the Department prior to the January 1, 2013 effective date of the FAP benefit decrease shows that the Department acted in accordance with Department policy when it concluded that Claimant had monthly net income of \$614 and was eligible for monthly FAP benefits of \$16, effective January 1, 2013. BEM 556 (October 1, 2011); RFT 260 (December 1, 2012), p 6.

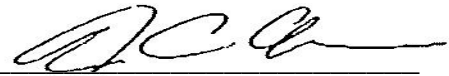
At the hearing, the Department testified that Claimant had recently completed a FAP redetermination. Any changes in Claimant's FAP benefits resulting from the redetermination took effect after the request for hearing in the instant case was filed and were not considered at the hearing.

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 calculating Claimant's 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: 3/8/2013

Date Mailed: 3/9/2013

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:

