

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-29870
Issue No.: 3021
Case No.: [REDACTED]
Hearing Date: March 20, 2013
County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 20, 2013, from Detroit, Michigan. Claimant was not present at hearing; however, participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for February 2013?

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 January 22, 2013, Claimant submitted a completed redetermination which reported a change in shelter expenses.
3. On January 30, 2013, the Department sent Claimant a Notice of Case Action advising her that her monthly FAP benefits would be reduced to \$16 effective February 1, 2013.
4. On February 14, 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 January 30, 2013, Notice of Case Action sent to Claimant notified her that her monthly FAP benefits would be reduced to \$16 beginning February 1, 2013. As a preliminary matter, the Department increased Claimant's FAP benefits to \$127

beginning March 1, 2013, ongoing and is not at issue in this decision. This decision will only address Claimant's FAP benefits for February 2013.

The Department reduced Claimant's FAP benefits effective February 1, 2013, because Claimant submitted a redetermination form that included discrepancies in Claimant's reported shelter expenses and Claimant was unable to verify the expenses by the due date. Therefore, the Department did not budget any shelter expenses for Claimant's February 2013 FAP budget, which ultimately led to the decrease in FAP benefits.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (October 2012), p. 10. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 11. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 11. Acceptable verification sources include, but are not limited to, a statement from the landlord. BEM 554, p. 11. For FAP redeterminations, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210 (November 2012), p. 12. The client must obtain required verification, but you must assist if they need and request help. BAM 130 (May 2012), p. 3. If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, use your best judgment. BAM 130, p. 3.

At the hearing, the Department testified that Claimant reported in her redetermination form two different shelter expenses. The Department testified that Claimant first reported shelter expenses in the amount of \$650 in the DHS-1010 form, but also included a letter from the landlord which reported her shelter expenses in the amount of \$400. It should be noted that Claimant's Authorized Hearing Representative (AHR) is her landlord. Due to this discrepancy, the Department left a message for Claimant's AHR on January 30, 2013, to verify the correct amount. On February 1, 2013, the AHR contacted the Department and established that Claimant's ongoing rent is \$650. However, the Department testified that it was unable to budget an appropriate shelter expense for February 2013 because the AHR was unable to verify Claimant's shelter expense by the end of the current benefit period—January 31, 2013.

Although Claimant's AHR submitted different shelter expenses, there was no dispute that Claimant had incurred such expenses. Therefore, even though Claimant provided contradictory statements as to why two different shelter expenses were reported, the Department should have budgeted shelter expenses for February 2013 based on the best available information it had. BAM 130, p. 3. Claimant provided a letter from the landlord which verified shelter expenses in the amount of \$400. BEM 554, p. 11. Even though the Department was unable to verify the shelter expense discrepancy by the end of the current benefit period, the Department should have budgeted \$400 in shelter expenses for February 2013 because that was the best available information it had at that time. BAM 130, p. 3. Under these facts, the Department did not act in accordance with Department policy when it reduced Claimant's FAP benefits for February 2013.

Accordingly, the Administrative Law Judge concludes that the Department improperly 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.

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 February 2013 only, including shelter expenses in the amount of \$400;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Eric J. Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 25, 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

EJF/pf

cc:

