

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-31067
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: March 28, 2013
County: Wayne (82-31)

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 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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?

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 February 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$27 monthly effective March 1, 2013.
3. On February 15, 2013, Claimant filed 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 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.

On February 6, 2013, the Department notified Claimant that her FAP benefits would decrease to \$27 effective March 1, 2013. The Department testified that the change was due to an increase in Claimant's Retirement, Survivors and Disability Insurance (RSDI) benefits to \$1,068 and a decrease in her medical expense deduction to \$0. At the hearing, the figures the Department considered in calculating Claimant's FAP benefits were reviewed. Claimant did not dispute the income and shelter figures used by the Department and verified that the FAP group consisted of only herself.

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 testified that she had brought documentation concerning medical expenses not previously presented to the Department to the hearing. Claimant was advised that such expenses would affect future FAP benefits, if at all, and would not be considered in determining the Department's calculation of Claimant's benefits in the February 6, 2012, Notice of Case Action. See BAM 220 (November 1, 2012), p. 8.

In calculating Claimant's FAP benefits for March 1, 2013, ongoing, the Department testified that it determined that Claimant was not eligible for any medical expense deduction. The Department testified that, in connection with her mid-year certification, Claimant presented three medical expenses for doctor visits: (i) one for \$15.91 for services rendered on April 2, 2012, (ii) one for \$28.07 for services rendered on May 2, 2012 and (iii) one for \$60 for services rendered on October 9, 2012. While the Department testified that it excluded these expenses because doctor visits are not allowable expenses, this conclusion was erroneous. See BEM 554 (October 1, 2012), pp. 7-8. However, medical expenses are eligible for the medical expense deduction in FAP budgets only if they are currently incurred or currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue), or the client has made arrangements for payment before the bill became overdue. BEM 554, p. 9. Based on the date that services were incurred and in the absence of any evidence that the bills were currently billed, the bills were not currently incurred or billed. Thus, the Department acted in accordance with Department policy when it excluded these expenses from the medical deduction on the basis that they were overdue. The

Department noted that Claimant had ongoing monthly medical insurance premiums of \$34.10 and that the State paid Claimant's monthly \$104.90 Medicare Part B premium. Because Claimant's only eligible medical expense, the \$34.10 insurance premium, did not exceed \$35, the Department properly concluded that, based on the verifications it had at the time of the mid-year certification, Claimant was not eligible for a medical expense deduction.

A recalculation of Claimant's FAP budget based on the foregoing figures and information shows that the Department acted in accordance with Department policy when it concluded that Claimant had a net income of \$576 and was eligible for monthly FAP benefits of \$27. See BEM 556 (July 1, 2011), pp. 1-6; RFT 260 (December 1, 2012), p. 6.


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 monthly FAP benefits based on the information it had at the time of the mid-year certification.

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: April 3, 2013

Date Mailed: April 3, 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/pf

cc:

