

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-35335
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne (82-19)

ADMINISTRATIVE LAW JUDGE: Eric 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 April 15, 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 for March 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 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 March 1, 2013, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
due to Claimant's Retirement, Survivors and Disability Insurance (RSDI) cost-of-living increases (COLAs).

4. On February 28, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
5. On March 11, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case. reduction of 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.

As a preliminary matter, Claimant also disputed her FAP case closure effective April 1, 2013, ongoing. However, Claimant's Request for Hearing was filed on March 11, 2013, after her FAP benefits reduction and before the Department took, or intended to take, any action to close her case for failure to complete a redetermination. Therefore, this decision will only address the March 2013 benefits.

On February 28, 2013, the Department sent Claimant a Notice of Case Action (Exhibit 4) notifying her that her monthly FAP benefits would be reduced to \$16 effective March 2013 benefits due to her RSDI increasing.

FAP Budget and Medical Expenses

At the hearing, the FAP Budget (Exhibit 1) for the benefit period of March 1, 2013, ongoing was reviewed. Claimant verified the amount used by the Department to determine her unearned income. The Department properly calculated Claimant's unearned income from her RSDI to be \$1,731. BEM 503 (November 2012), p. 21. Claimant also confirmed that her FAP group size was two. A review of the FAP budget shows that the Department properly applied the \$148 standard deduction applicable to Claimant's group size. RFT 255 (October 2012), p. 1.

However, at the hearing, Claimant contended that the Department excluded her additional medical expenses she had previously given to the Department and/or had present with her at the hearing. 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. To be countable in the FAP budget, a 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. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3.

A review of the March 2013 FAP Budget (Exhibit 1) showed a medical deduction total in the amount of \$61. However, at the hearing, the Department reviewed each medical deduction Claimant submitted. A review of all the medical deductions the Department listed resulted in a total of \$98. Thus, Claimant was eligible for a \$63 medical deduction (\$98, less the \$35 threshold). BEM 554, p. 1. Based on the foregoing evidence and testimony, the Department improperly calculated Claimant's medical deduction because Claimant is entitled to a higher medical deduction.

Claimant also testified that she submitted additional medical expenses to the Department. In this case, the additional medical expenses Claimant testified about were all incurred and/or billed from 2009 to 2012 but not reported or verified until 2013. 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. BEM 554, pp. 7-9.

Additionally, at the hearing, Claimant indicated that she had additional medical bills to submit. Claimant testified that she did not submit these medical bills at any other time until today's hearings. Claimant was advised to submit any outstanding, unpaid medical expenses to the Department for processing in accordance with BEM 545.

Based on the foregoing figures and information, the Department improperly calculated Claimant's medical deductions for her March 2013 FAP budget.

Shelter Expenses

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. A review of the March 2013 FAP Budget (Exhibit 1) showed an excess shelter deduction in the amount of \$39. Claimant disagreed with this amount. The Department testified that the budget provided at the hearing (Exhibit 1) does not show the appropriate calculation for excess shelter deductions for March 2013. Thus, the Department did not satisfy its burden to show how it calculated the shelter deductions to be \$39 and it will have to recalculate Claimant's March 2013 FAP budget in regards to her excess shelter deduction.

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 the Department improperly calculated Claimant's March 2013 FAP budget only.

DECISION AND ORDER


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and 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 March 2013 FAP budget in accordance with Department policy and consistent with this Hearing Decision to include \$63 in medical deductions and verified shelter expenses;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for March 2013; and

3. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: April 17, 2013

Date Mailed: April 17, 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 affect the substantial rights of the claimant:
 - 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:

