

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201337157
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Macomb 12

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 25, 2013, from, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES) [REDACTED].

ISSUE

Did the Department properly act in accordance with Departmental policy when it took action to reduce the Claimant's 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. The Claimant is an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED].
2. On March 1, 2013, the Department sent the Claimant a DHS-2240-A, Mid-certification Contact Notice due April 1, 2013.
3. On March 18, 2013, a SOLQ revealed that the Claimant would begin to get monthly RSDI in the amount of \$ [REDACTED] on April 1, 2013.
4. On March 18, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that his monthly FAP allotment would be reduced to \$ [REDACTED] beginning April 1, 2013.

5. On March 26, 2013, the Department received the Claimant's written hearing request protesting that the reduction began in April, when he will not see an RSDI check until May 22, 2013.

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 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 2000 ACS, 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.

On April 19, 2013, the Michigan Administrative Hearing System received the Claimant's request to withdraw his hearing. On April 23, 2013, the Administrative Law Judge issued an Order Denying Hearing Request Withdrawal, as the Claimant's request indicated that he still disagreed with a portion of the Department's decision.

The Department did not contest the Claimant's statement that he will not see any income from RSDI until May 22, 2013 and it was also not contested that when he does get the RSDI, it is for the month of April. The ES testified that such benefits run a month behind and that the Departmental policy is to budget it as such, however, when the Administrative Law Judge asked the ES to cite which policy that was, the ES was unable to do so.

Therefore, the Administrative Law Judge researched the policy cited on the hearing summary, as well as other policies related to income. Bridges Eligibility Manual (BEM) 505 (2010) p. 2 instructs the Department workers to determine budgetable income using countable, available income for the benefit month being processed. BEM 550 (2102) p. 1, instructs department workers to use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. BEM 505 (2010) p. 1 instructs Department workers that a group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. Department workers are to obtain input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process.

It is not contested in this case that though the RSDI payment the Claimant will receive on May 22, 2013 is intended to cover the month of April, he will not be supplemented. The ES at the hearing testified that RSDI benefits run a month behind and that it is proper to budget the benefits as such. Yet, she could cite not policy to the Administrative Law Judge to support her position and the policy that the Administrative Law Judge researched indicates that the income needs to be available to the Claimant to be counted. It is not contested that the \$ [REDACTED] RSDI is not available to the Claimant in the month of April, and the Administrative Law Judge therefore concludes that the Claimant's income should have been prospected into the month of May, as that is when he will receive the income. The evidence does not establish that the Department was acting in accordance with it's policy when taking action to reduce the Claimant's monthly FAP allotment.

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 when taking action to reduce the Claimant's monthly FAP allotment a month before he actually received his RSDI benefits.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate action to redetermine the Claimant's eligibility for FAP for the month of April 2013 not counting the RSDI income that he will not get until May 22, 2013, and
2. Initiate action to issue the Claimant any supplement that he may thereafter be due.

/s/
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/25/13

Date Mailed: 4/29/13

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.

201337157/SEH

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

SEH/tb

cc:

