

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201341654  
Issue No.: 3002, 4013  
Case No.: [REDACTED]  
Hearing Date: May 21, 2013  
County: Kent

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 May 21, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

**ISSUES**

Did the Department properly reduced Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly determine Claimant's eligibility for State Disability Assistance (SDA)?

**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 FAP, SDA and Medical Assistance (MA) on February 25, 2013.
2. On March 12, 2013, the Department received correspondence from the Social Security Administration (SSA) that Claimant received RSDI in the amount of \$1,724.60 per month.
3. On March 22, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant for expedited FAP with a monthly allotment of \$200.00 for March 1, 2013 through March 31, 2013. The DHS-1605 also approved

Claimant's SDA for \$100.00 for March 1, 2013 through March 31, 2013 but later denied Claimant's SDA application effective April 1, 2013.

4. On March 27, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605), which indicated that Claimant's monthly FAP would decrease to \$16.00 per month effective April 1, 2013.
5. On April 8, 2013, the Department received Claimant's request for a hearing challenging the SDA denial and FAP reduction.<sup>1</sup>

### **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 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 AACR, R 400.3151 through R 400.3180.

According to RFT 225, for purposes of SDA, an individual whose application is received on or after October 1, 2011 has a monthly income limit of \$200.00.

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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500. The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

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<sup>1</sup> Claimant also requested a hearing concerning Medical Assistance (MA), but during the hearing Claimant withdrew his request because the Department had approved his request for MA.

BEM 550 describes income budgeting policy. When the Department budgets the amount of FAP for a group, it first determines whether there is a senior<sup>2</sup>, disabled person<sup>3</sup> or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group<sup>4</sup> must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department will verify allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554. The Department will also verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554. BEM 554 at page 9 provides that acceptable verification sources include current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.

Here, Claimant disputes the Department's decision to reduce his FAP from \$200.00 to \$16.00 and to deny his application for SDA due to excess income. With regard to the Department's SDA denial due to excess income, there is no dispute that Claimant, at all times, received well in excess of the \$200.00 monthly amount. His monthly RSDI was \$1,724.00 effective December 2012. He is clearly not eligible for SDA due to his excess income.

With regard to Claimant's FAP reduction, Claimant only challenges the Department's failure to consider his outstanding medical bills. The Department, on the other hand, states that Claimant's medical bills were not current.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of*

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<sup>2</sup> A "senior" is a person at least 60 years old. BEM 550 p 1.

<sup>3</sup> A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement **and** is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

<sup>4</sup> An SDV FAP group is one which has an SDV member. BEM 550 p 1.

*Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record, including the medical bills that were included as Claimant's exhibits. These medical bills were from 2011 and 2012. Claimant's assistance application for FAP was dated February 25, 2013. These medical bills are not current as defined by BEM 554. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly determined Claimant's SDA eligibility and properly reduced his monthly FAP benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly when it reduced Claimant's FAP and denied his SDA application due to excess income.

Accordingly, the Department's FAP and SDA decisions are **AFFIRMED**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: May 24, 2013

Date Mailed: May 28, 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

CAP/aca

cc:

