

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201350343
Issue No.: 3000; 2026
Case No.: [REDACTED]
Hearing Date: June 27, 2013
County: Bay

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 June 27, 2013, from Lansing, 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 determine the Claimant's monthly Food Assistance Program (FAP) allotment and the Claimant's Medical Assistance (MA) deductible?

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 FAP and MA benefits.
2. On May 9, 2013, the Claimant applied for Child Development and Care benefits, and as such, the Claimant was again required to submit verification of income.
3. On May 20, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her FAP benefits increased from \$ [REDACTED] per month to \$ [REDACTED] per month and that her MA Deductible also increased from \$ [REDACTED] per month to \$ [REDACTED] per month.

4. On May 29, 2013, the Department received the Claimant's written hearing request protesting the determination of her FAP allotment and her MA deductible.

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.

During the hearing, it was pointed out to the Claimant that her FAP allotment had increased significantly. The Claimant had no issue with the increase, but testified that she now felt that the allotment should be larger, as her income has recently been significantly reduced. The Claimant was informed that her FAP budget could be adjusted upon her timely submitting verification of the change in her income. The Claimant understood this.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, 1999 AC, R 400.901 through Rule 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). In this case, there has actually been a positive action as the Claimant's allotment actually increased significantly on June 1, 2013. That the Claimant's income is reduced right around the time her FAP allotment is determined does not mean her FAP case suffered a negative action. The Claimant can again have her FAP budget adjusted and level of eligibility re-determined upon submission of appropriate verification of her income reduction. The FAP issue is dismissed as the Administrative Law Judge determines that there is no jurisdiction to hear it.

Bridges Eligibility Manual (BEM) 505 (2010) pp. 6, 7 provides that the Department workers convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

The Claimant's income was discussed thoroughly and the ES at the hearing conceded that she took three, [REDACTED] with figures of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] added those figures and divided by six and then multiplied by 2 to get a biweekly average of \$ [REDACTED]. She then multiplied that by 2.15 to arrive at \$ [REDACTED]. Using the appropriate formula described in policy the amounts of the three paycheck stubs would be added, divided by three and then multiplied by 2.15, which also results in \$ [REDACTED]. This does not match the figures contained in the MA budget, which are much lower. The ES testified that the \$ [REDACTED] figure was how the Claimant's income was calculated for her FAP budget.

There is no explanation for why the income in the MA budget in evidence is much lower than that. During the hearing there was also no discussion regarding the amounts in the MA budget. It was only after the hearing when the Administrative Law Judge was researching the issues in this case that she became aware that MA is budgeted differently than other assistance according to Bridges Eligibility Manual (BEM) 530 (2102), which details the budgeting procedure for MA. Therefore, there was no discussion of the MA budget when compared to the procedure described in BEM 530. As such, the evidence is insufficient to establish that the Department was acting in accordance with its policy when determining the Claimant's MA deductible.

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. did not act properly when determining the Claimant's MA deductible.

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 re-determine the Claimant's eligibility for MA back to May 1, 2013, and
2. Initiate action to issue the Claimant any supplement she may thereafter be due.

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

Date Signed: 7/1/13

Date Mailed: 7/1/13

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.

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:

