

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201351851
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: July 9, 2013
County: SSPE-West

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 July 9, 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 Food Assistance Program (FAP) allotment for April of 2013 and May of 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. The Claimant applied for FAP benefits.
2. For the certification period of April 25, 2013 to March 31, 2014, three separate FAP budgets were completed. During the hearing, the Department conceded that the FAP budget which was admitted as Department's Exhibit 4 was completed in error as it considered earned income which should not have been considered.
3. FAP budget admitted as Department's Exhibit 5 considered only unearned income of \$ [REDACTED] and resulted in a FAP allotment of \$ [REDACTED] for the month of May. FAP budget admitted as Department's Exhibit 6 considered only \$ [REDACTED] unearned income and resulted in a FAP allotment of \$ [REDACTED] for the month of June.

4. On May 24, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that she was approved for FAP from April 25, 2013 to April 30, 2013 with no allotment and that her FAP allotment from May 1, 2013 to March 31, 2014 would be \$ [REDACTED]
5. On June 3, 2013, the Department received the Claimant's written hearing request protesting the determination of her FAP allotment for April and May of 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 AACS, 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.

In this case, the Department conceded that the Claimant's earned income should not have been counted in the first FAP budget determining the allotment for the last five days in April of 2013 because the uncontested testimony was that the Claimant's last pay check was dated March 22, 2013. The Claimant initially contested the amounts of unemployment compensation benefits (UCB) which the Department had budgeted for her; however, through the course of the hearing, the Claimant conceded that she had taxes withheld from her UCB checks. The Administrative Law Judge concludes that the tax withholding accounts for the difference in what the Claimant believes should have been budgeted and the Department actually budgeting the gross amount of UCB.

Bridges Eligibility Manual (BEM) 503 (2013) p. 26, provides that the gross amount of UCB benefits be counted. In this case, it is not contested that the Department counted the gross amount, as opposed to the net amount, of the UCB. Therefore, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when determining the Claimant's FAP allotment for May of 2013.

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 determining the Claimant's FAP allotment for May of 2013. did not act properly when determining the Claimant's FAP allotment for the last five days in April of 2013.

Accordingly, the Department's AMP FIP FAP for April 2013 MA SDA CDC decision is AFFIRMED **REVERSED**.

Accordingly, the Department's AMP FIP FAP for May of 2013 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 FAP for April of 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: 7/12/13

Date Mailed: 7/15/13

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:

