

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

IN THE MATTER OF:



Reg. No.: 201315302
Issue No.: 3002
Case No.:
Hearing Date: January 14, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's 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)? |

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 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 November 21, 2012, the Department notified Claimant that he was eligible for \$116 in monthly FAP benefits effective December 1, 2012.
3. On December 5, 2012, Claimant filed a hearing request, protesting the Department's action.

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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 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 Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

Additionally, in connection with Claimant's FAP redetermination, the Department recalculated Claimant's FAP benefits and determined that Claimant was eligible for monthly FAP benefits of \$116 effective December 1, 2012.

At the hearing, the Department provided a copy of Claimant's December 2012, ongoing, FAP budget showing the calculation of his monthly FAP benefits. Claimant verified that he received monthly gross Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$1267 and that he was the sole member of his FAP group. Two issues arose in reviewing the budget: (i) the amount of Claimant's child support deduction and (ii) the calculation of Claimant's excess shelter deduction.

Child Support Deduction

Although the Department testified that it relied on three months' of child support to calculate Claimant's child support deduction, in calculating expenses for FAP budget purposes, expenses should be used from the same calendar month as the month for which benefits are determined. BEM 554. In this case, the consolidated inquiry shows that Claimant paid \$132 in arrearage child support during the month of November 2012, which was the month his redetermination took place. The FAP budget shows that Claimant received a child support deduction for \$132, consistent with the amount of child support he paid in November 2012. Claimant confirmed that he was responsible for \$132 in monthly child support and that child support in that amount was deducted from his gross RSDI income. Thus, the Department acted in accordance with Department policy in providing Claimant with a \$132 child support deduction, despite its contrary testimony concerning the manner in which it calculated the deduction.

Excess Shelter Deduction

Claimant was also concerned that the Department considered his monthly housing costs of \$625 even though he had advised the Department in his redetermination that his rent had increased to \$650. At redetermination, FAP clients have until the last day of the redetermination month or ten days after being asked to provide verification, whichever is later, to provide requested verifications. BAM 130 (May 1, 2012), p 5. In this case, the Department sent Claimant a Shelter Verification on November 21, 2012, requesting verification of housing costs by December 3, 2012. Although it is difficult to read the time-stamp on the completed Shelter Verification received by the Department to establish when the Department received the verification, it was signed by Claimant's landlord on December 30, 2012. Because the Shelter Verification was received after the December 3, 2012 due date, the increased rental expense did not have to be considered for the December 2012 budget. However, the Department is required to process the rent change for future months in accordance with Department policy. See BAM 220 (November 1, 2012), p 8. Although Claimant testified that he provided copies of his rent receipts showing his increased rental obligation before the Shelter Verification due date, the Department credibly established that it did not receive verification of the increased expense until it received the Shelter Verification.

A review of the FAP budget based on the foregoing information and the information verified by Claimant shows that the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$116. See BEM 556 (July 1, 2011); RFT 260 (December 1, 2012), p 3.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, the Administrative Law Judge concludes that the Department properly calculated Claimant's benefits for: AMP FIP FAP MA SDA CDC.

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.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated above and on the record.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: January 18, 2013

Date Mailed: January 18, 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

ACE/hw

cc:

