

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
HIGHLAND, MI 48356

Reg. No.: 201318598
Issue No.: 3009; 3002
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Oakland (03)

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 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's benefits for Food Assistance Program (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. 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). |
| <input type="checkbox"/> Direct Support Services (DSS). | |

2. On December 12, 2012, the Department sent Claimant a Notice of Case Action informing her that, based on a household size of one, her FAP group was eligible to receive \$55 for the period between December 11, 2012, and December 31, 2012 and \$77 for January 1, 2013, ongoing.

3. On December 18, 2012, Claimant filed a hearing request, protesting the calculation of her FAP benefits.

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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et seq.*, and Mich Admin Code R 400.3603.

Additionally, Claimant applied for FAP benefits on December 11, 2012, for herself and her son. The Department excluded Claimant as a member of her FAP group based on her convictions for drug-related felonies. BEM 203 (October 1, 2012), p 2, provides that an individual convicted of a felony for the use, possession, or distribution of controlled substances two or more times in separate periods will be permanently disqualified if both offenses occurred after August 22, 1996. At the hearing, Claimant admitted that she had pleaded to at least two drug-related felonies that occurred after August 22, 1996. Thus, the Department acted in accordance with Department policy when it concluded that Claimant was a disqualified member of her FAP group and that her son was the sole eligible member of the FAP group. BEM 212 (November 1, 2012), pp 6-7.

At the hearing, the Department testified that it had erroneously calculated Claimant's FAP benefits for December 2012 based on inaccurate information concerning the household income. The Department agreed to recalculate Claimant's FAP budget of December 2012 to reflect Claimant's unearned income of \$1058 for that month (based on her son's receipt of \$686 in RSDI income and her receipt of \$372.40 in RSDI income), and to issue supplements due to Claimant for FAP benefits she was eligible to receive in December 2012 based on the recalculated FAP budget but did not receive.

Claimant's FAP budget for January 1, 2013, ongoing, was reviewed with Claimant during the hearing. Claimant verified her gross monthly income and monthly housing expenses for that month. The Department acted in accordance with Department policy when it included Claimant's income in the calculation of the group's income even though Claimant was disqualified based on her drug-related felonies. BEM 550 (February 1, 2012), p 2. A review of the budget showed that the Department calculated Claimant's net income of \$410 in accordance with Department policy and properly concluded that, based on a net income of \$410, Claimant was eligible for monthly FAP benefits of \$77 effective January 1, 2013, ongoing.

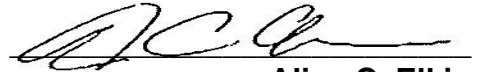
Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, the Administrative Law Judge concludes that (i) the Department agreed to recalculate Claimant's FAP budget for December 2012 and issue supplements for FAP benefits due to Claimant for that month and (ii) the Department calculated Claimant's FAP budget for January 1, 2013 ongoing in accordance with Department policy.

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 properly calculated FAP benefits for January 1, 2013, ongoing, and agreed to recalculate the December 2012 FAP budget and issue supplements due to Claimant for that month.

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

1. Begin recalculating Claimant's FAP budget for December 2012 in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for the month of December 2012; and
3. Notify Claimant in writing of its decision in accordance with Department policy.


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

Date Signed: January 29, 2013

Date Mailed: January 29, 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:

