

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201328894
Issue No.: 2019; 3026
Case No.: [REDACTED]
Hearing Date: March 26, 2013
County: Genesee 02

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on March 26, 2013, from Grand Blanc, Michigan. Participants on behalf of Claimant included [REDACTED], an interpreter and a tactile interpreter. Participants on behalf of Department of Human Services (DHS) included [REDACTED], APS.

ISSUE

Did the DHS properly process Claimant's MA and FAP in December, 2012 at review?

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 is deaf. Claimant's [REDACTED] is deaf and blind.
2. At all relevant times prior to the negative action herein, Claimant and Claimant's [REDACTED] (and family) have been recipients of FAP and full MA for years.
3. Claimant owns a [REDACTED] and has traditionally used [REDACTED] expenses in calculating eligibility. Prior to the negative actions herein, Claimant had a DHS worker who retired, and prior to that, another who transferred.
4. In December, 2012 after Claimant lost his regular DHS workers, Claimant's cases were up for review. Claimant has a long standing request with DHS due to the disability in the family to only receive

communications by fax or email. Claimant's previous workers always accommodated Claimant. At 2012 review, the DHS failed to accommodate Claimant's requests due to his disabilities.

5. Claimant submitted evidence at the administrative hearing that the DHS repeatedly ask Claimant to call the DHS. The DHS submitted evidence at the administration hearing that it had attempted emails dated March, 2013, irrelevant to the 2012 issues herein.
6. The DHS failed to submit evidence at the administrative hearing that the DHS requested self-employment receipts. The DHS applied 25% standard for [REDACTED] income.
7. Claimant's FAP benefits were reduced from \$ [REDACTED] to \$ [REDACTED] Claimant's MA changed to a high spend-down.
8. Claimant's submitted actual receipts at the administrative hearing.
9. Claimant had documentation including [REDACTED] and hand written summaries of his expenses used to complete his [REDACTED].
10. The actions identified in finding of fact #7 above took place 12/31/12. Claimant requested a hearing on 1/29/13.

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.

Applicable policy and procedures to income from self-employment is found primarily in BAM 502. That policy for [REDACTED] expenses lists the types of verifications for income and expenses. The DHS contends that Claimant did not submit self-employment receipts as required under BAM 502; Claimant argues that he did not submit receipts as the DHS never requested verification of actual receipts.

Claimant's cases have used actual receipts in calculating eligibility for many years. Claimant has had prior workers who have helped Claimant and managed Claimant with his eligibility taking into account Claimant and Claimant's spouse's disabilities. However, these workers recently retired and transferred. The current communications with Claimant by the DHS failed to follow Claimant's instructions with regards to communicating with him only by email and fax due to his disabilities. The DHS repeatedly issued correspondence requesting the Claimant call the DHS. The DHS was not sensitive to Claimant's disabilities.

The DHS's response that actual receipts were requested was not corroborated by evidence on the record.

The undersigned Administrative Law Judge (ALJ) has taken all the evidence into account. Claimant was a credible witness. Claimant submitted verifications of [REDACTED] expenses as required under DHS policy and procedures at the administrative hearing. The DHS is reversed on both actions regarding Claimant's MA and FAP programs.

The DHS is ordered to reinstate Claimant's MA and FAP cases to the original level of benefits prior to the negative action herein and back to the closure date. The DHS is further ordered to utilize the receipts submitted by Claimant and/or is may use the alternative summaries credible provided by Claimant in assessing these expenses. Policy does not indicate that applicants or individuals at review have to organize the receipts in any particular order or manner. The policy is clear and simple: Self employment expenses are to be verified with "receipts." BAM Item 502, p 7. Claimant submitted the receipts. The DHS actions are reversed.

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.

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

1. Reinstatement Claimant's MA and FAP benefits to the original level of benefits prior to any action taken herein, and back to the date of closure.
2. Recalculate Claimant's eligibility for FAP and MA based upon the receipts and/or hand written summaries and tax returns submitted by Claimant which summarizes his self-employment expenses for his business, if not already done.
3. Issue notice to Claimant as to outcome of the DHS's re-determination. If Claimant should dispute the outcome of the recalculation, Claimant shall retain the right to a hearing for 90 days from the date of the notice of case action.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/17/13

Date Mailed: 5/21/13

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

JGS/tb

cc:

