

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 12063
Issue No.: 2001, 3008
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following the Claimant's request for hearing, 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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], FIS.

ISSUE

Due to income, did the Department properly deny the Claimant's application close Claimant's case 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 checked="" type="checkbox"/> Medical Assistance (MA) Deductible? | <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 for: 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 checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 25, 2013, the Department notified Claimant that his LIF medical had changed to a deductible and that his deductible was \$400 and his children had Other Healthy Kids medical benefits effective November 1, 2013.
3. The Department also recalculated the Claimant's Food Assistance (FAP) benefits for September 2013 and determined the benefits were now \$638 per month. The Department recalculated the benefits due to the fact that the Claimant began working and had to include the Claimant's earned income.
4. On November 4, 2013 the Claimant or Claimant's AHR filed a hearing request,
 denial of the application. closure of the case. reduction of benefits
 requesting a hearing to determine how his benefits for FAP and Medical deductible were calculated.

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 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, Rule 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Calculation of Food Assistance Benefits

Additionally, at the hearing a thorough review of the Claimant's FAP budget was conducted and the Department explained in detail how the amount of income both based on unemployment and RSDI received by Claimant's daughter were determined and the correct formula was applied. Exhibits 1 and 4. The Claimant also confirmed that the correct rent amount was used by the Department and the excess shelter expense was reviewed and explained. Based upon the evidence presented it is determined that the Claimant properly calculated the Claimant's Food Assistance benefits.

Calculation of Medical Assistance Deductible

The Claimant also receives medical assistance and requested an explanation how the medical assistance deductible was calculated. At the hearing a budget was reviewed

but the explanation given by the Department did not review the calculation but merely relied on the Bridges system calculation.

Based on the evidence produced the Department did not sustain its burden of proof. The budget discussed and presented at the hearing was not provided to the undersigned until after the hearing and thus no review could be made at the time of the hearing. The budget to determine the medical deductible is determined based upon a series of steps found in Department of Human Services Bridges Eligibility Manual, (BEM) 536 (1/2010).

At the hearing the Claimant testified that he had 5 children and a spouse living with him; thus, for purposes of the determining the medical deductible the Claimant had 6 dependents. The Department provided an Employment Budget Summary which demonstrated that in August 2013 the gross earned income to determine the deductible amount was \$2,152.

Using the earned income amount provided by the Department and the testimony of the Claimant as to the number of dependents and the fact that the Claimant had been receiving LIF, the Adult's prorated income amount as calculated by the Department is too high given the income and the number of dependents. The review of the MA budget provided used to determine the deductible does not disclose how many dependents the Department used to determine the deductible, but based on the Claimant's testimony that he had 5 children, and spouse the Claimant would have 6 dependents, and the pro rate divisor for Step 11 would be 8.9. BEM 536, pp.6, (7/1/13) It was not further disclosed by the Department if these children were under the age of 18 as required by policy to be a dependent. Based upon this review it is determined that the deductible as determined by the Department is incorrect and must be recalculated to determine the correct adult's share of Adult's prorated income and number of dependents. BEM 536 (7/1/13).

Calculation of Food Assistance (FAP) benefits

The Claimant also sought to determine if the Department correctly calculated his Food Assistance benefits. It should be noted that the Claimant's FAP benefits changed in large part due to the Claimant's beginning work and receiving earned income which had to be included as income when the FAP benefits are computed. A FAP budget was not provided until after the hearing and thus was not reviewed during the hearing and thus a review will be made in this decision. The Department used an average of 3 pay stubs to determine gross earned income. The pays used were \$1046 (6/7/13); \$1094 (6/21/13); and \$1088 (7/5/13). The Claimant is paid bi-weekly. These checks when added together total \$3228 and then are divided by 3 to get the average bi-weekly pay which equals \$1076. This pay is then multiplied by 2.15 to correct the amount for months which contain more than two pay periods which total is the Claimant earned income and equals \$2313. Exhibit 5. This is the earned income number that the Department used when calculating the benefits for August 2013 and is correct. The Department also calculated the FAP benefits based upon a group size of 7 which also is correct.

Claimant testified that he had rent of \$500 which is the rent the Department used. Exhibit 6.

In calculating the FAP benefits the Department must remove or deduct 20% of earned income thus $20\% \times \$2313 = \463 which amount is correct. The Department is also required to deduct a standard deduction based upon group size which based on a group size of 7 is \$213. RFT 255. When both the earned income deduction and the standard deduction are taken from the gross income the remaining figure is the Adjusted gross income which is \$1637 ($\$2313 - \$463 - \$213 = \1637).

The last calculation to determine the final food assistance allotment requires review of the shelter expense. In this case the rent of \$500 is correct and the utility allowance, the expense used for all FAP recipients to credit utility expense is \$575 which is also correct for the time the budget was calculated. The actual cost of utilities is not used to calculate FAP benefits. The rent and utility allowance are added together to determine the total shelter expense which was correctly determined to be \$1075. From that, 50% of the adjusted gross income of \$818 is deducted to yield a shelter expense of \$257 which is deducted from the adjusted gross income and this is the net income amount that the food assistance allotment is based on ($\$1637 - \$257 = \$1380$). Exhibit 6

Based upon this review it is determined that the Food Assistance benefits of \$638 as calculated for the period September 1, 2013 through September 30, 2014 is correct. It should also be noted that the \$575 utility expense allowance has since been lowered to \$553 in November 2013 which would account for Claimant's FAP reducing, as every recipient of FAP had benefits reduced due to the federal stimulus ending.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to income, the Department

properly calculated Claimant's FAP benefits
 improperly calculated the Claimant's deductible
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

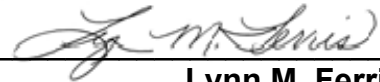
did act properly in calculating the FAP benefits
 did not act properly in calculating the Claimant's deductible.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is

AFFIRMED with regard to the calculation of FAP benefits
 REVERSED for the reasons set forth above as the MA deductible budget appears incorrect.

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

1. The Department shall recalculate the Claimant's MA deductible amount to determine the correct amount in accordance with Department policy and the findings regarding group size shall be used.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 21, 2014

Date Mailed: February 21, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

2014-12063/LMF

LMF/cl

cc:

