

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201148645
Issue No.: 3002; 3003
Case No.: [REDACTED]
Hearing Date: September 26, 2011
County: Wayne (17)

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 September 26, 2011, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's spouse and an adult member of Claimant's FAP group who appeared on behalf of Claimant because Claimant had given birth the day before the hearing. Participants on behalf of Department of Human Services (Department) included Lori Williams, Family Independence Manager, and Tyrone Richardson, Eligibility Specialist.

ISSUE

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

2. On August 1, 2011, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
 due to excess income for the period August 1, 2011 to September 30, 2011.
3. On July 8, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
 notice of the denial. closure. reduction.
4. On August 9, 2011, Claimant or Claimant's AHR filed a hearing request, protesting
 the
 denial of the application. closure of the case. reduction of 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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

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, Rule 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, 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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 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, Rule 400.5001 through Rule 400.5015.

Additionally, in this case, the Department recalculated Claimant's FAP budget after documentation provided to the Department by Claimant in April 2011, in connection with her Medical Assistance (MA) program redetermination, showed an increase in her group income. The Department may complete a budget when it is made aware of a change in the client's income that will affect eligibility or benefit level. BEM 505. Thus, the Department complied with Department policy when, after being made aware of Claimant's increased income, it recalculated Claimant's FAP budget.

The Department testified that it used gross weekly income received by Claimant's husband, as reflected on paystubs dated March 4, 2011; March 11, 2011; March 25, 2011; and April 1, 2011, to calculate Claimant's FAP budget and, based on this calculation, adjusted the FAP benefits for the benefit period from August 1, 2011 to September 30, 2011, Claimant's redetermination date for her FAP benefits. At the time it recalculated Claimant's budget, the Department also had paystubs from Claimant for May 13, 2011; May 20, 2011; May 27, 2011; and June 3, 2011. Claimant's husband acknowledged that the amounts on all the paystubs the Department had were accurate.

The budget prepared by the Department in recalculating Claimant's FAP budget shows a gross monthly income for Claimant's group of \$2977. This amount is actually less than the gross monthly income earned by Claimant's husband based on the pay stubs available to the Department at the time it prepared the budget, whether the March 2011 pay stubs alone are considered or all paystubs available to the Department at the time of the recalculation are considered. Using the \$2977 figure, Claimant's FAP budget was calculated in accordance with Department policy and properly concluded that Claimant was entitled to reduced FAP benefits of \$173 per month. The Department notified Claimant of the reduction of her FAP benefits on July 8, 2011, and the reduction affected only her August 2011 and September 2011 benefits. While the reason for the Department's delay in recalculating Claimant's FAP budget when it became aware of the change in Claimant's group income in April 2011 is unclear, the delay benefited Claimant by postponing the reduction in FAP benefits.

At the hearing, Claimant's spouse contended that his March pay increase resulted from additional overtime he worked at the time and was not typical. He pointed out that in July 2011, his income decreased to its levels prior to March. When a client reports income decreases, the Department must prepare a budget and, if a benefit increase results, the increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due. BEM 505. Claimant did not provide additional paystubs reflecting his changed income until August 15, 2011. At the hearing, Claimant also pointed out that in August 2011, his rent increased from \$650 to \$700 and that, following the birth of his child on September 25, 2011, his group size had increased from five to six. However,

the Department did not have the information regarding Claimant's changed circumstances on July 8, 2011, when it issued the Notice of Case Action reflecting Claimant's decreased benefits. Thus, it could not take this information into consideration at the time. Therefore, the Department acted in accordance with Department policy when it recalculated Claimant's FAP budget based on the best information available to it July 8, 2011.

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 excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case


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 above.

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



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

Date Signed: 10/03/11

Date Mailed: 10/04/11

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/dj

cc:

