

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-52572
Issue No.: 3014,3016
Case No.: [REDACTED]
Hearing Date: October 13, 2011
County: Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 13, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Due to the removal of the Claimant's step son from the Claimant's FAP group due to ineligibility due to student status 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)? |

Due to the Departments inclusion of the Claimant's step son's earned income in the calculation of the Claimant's FAP group benefits 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 July 28, 2011 the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits due to excess income.

3. On August 1, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.

4. On 8/2/11, 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 AACS, 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, this matter arises out of a reduction in FAP benefits due to the completion of the redetermination questionnaire by the Claimant (dated July 13, 2011). In the redetermination information, the Claimant advised the Department that his step-son, who he listed as included in the FAP group was in college. The Department removed the Claimant's step-son from the FAP group and sought verification regarding whether the student also worked at least 20 hours per week. The Department initially removed the Claimant's step-son from the group, thereby reducing the FAP benefits, and then after receipt of verification of employment included the Claimant's step-son back in the FAP group and included the earned income the Claimant's step-son reported.

The Claimant disputed this action by the Department, as his step-son had been a student for as long as he was in the FAP group and the Claimant did not understand why the step-son's income should be counted as group income, and why his step-son's student status caused him initially to be removed from the FAP group.

In March 2011 Department policy changed and redefined Student Status. In order to be eligible for FAP benefits a student is now required to be enrolled in school at least part time and working at least 20 hours a week and paid for their employment. BEM 245, page 3. The addition of the 20 hour work requirement was a change in previous policy that did not include the 20 hour work requirement.

Based upon the foregoing policy change the Department correctly removed the Claimant's step son from the FAP group based upon the redetermination information provided. BEM 212 provides that a person who does not meet the requirements of BEM 245 is a non group member, page 8. The redetermination indicated that the step son was in school but did not indicate he was employed, nor was any income for the step-son reported. Exhibit 1. Based on the best available information provided by the redetermination information, the Department correctly removed the Claimant's step-son from the FAP group. After the Department received verification of employment from the Claimant regarding his step-son, the Department correctly added the Claimant's step-son back into the FAP group and correctly included his income. Earnings of all adults

included a FAP group must be included in the group countable income when calculating the FAP benefits. BEM 505.

The removal of the Claimant's step-son with regard to his student status from the Claimant's FAP group which caused a reduction in FAP benefits was correct and in accordance with Department policy.

The inclusion of the Claimant's step-son in the FAP group, and including the step-son's income from employment in the FAP calculation is also correct and in accordance with Department policy.

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

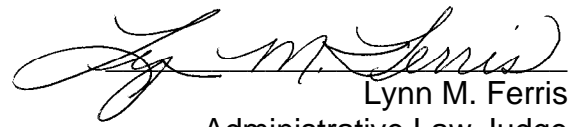
for: AMP FIP FAP MA SDA CDC.

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 stated on the record.

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


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

Date Signed: October 17, 2011

Date Mailed: October 17, 2011

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

LMF/hw

cc:

