

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

IN THE MATTER OF:



Reg. No.: 201142538
Issue No.: 6019
Case No.:
Hearing Date: November 9, 2011
County: Macomb (20)

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 November 9, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and , Claimant's provider. Participants on behalf of Department of Human Services (Department) included Stephanie Moore, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input checked="" 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 received benefits for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On June 13, 2011, the Department denied Claimant's application closed Claimant's case due to excess income.

3. On June 13, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On June 20, 2011, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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, 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 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, 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, the Department testified that it denied Claimant's June 1, 2011 application for CDC benefits on the basis that Claimant had excess income. At the hearing, Claimant conceded that the Department properly calculated her group's earned income but disputed the Department's calculation of the child support her group received.

BEM 505 provides a guideline for calculating child support income in connection with preparing a budget. Unless changes in support payments are expected, the Department should use the average of child support payments received in the past three calendar months, excluding any unusual amounts that are not expected to continue. BEM 505. The current month is included if all payments for the month have been received. BEM 505. If payments for the past three months vary, the Department must discuss the payment pattern from the past with the client and clarify whether the pattern is expected to continue or if there are known changes. BEM 505. If the irregular pattern is expected to continue, then the average of the three months should be used. BEM 505. If the past three months' child support is not a good indicator of future payments, the Department must calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505.

In this case, Claimant was receiving child support for four of her children, [REDACTED]. The amounts Claimant received for the children was not consistent. For [REDACTED], Claimant received \$126.73 for May 2011, and \$0 for March 2011, April 2011 and June 2011. For [REDACTED], Claimant received \$8.15 for March 2011, \$391.85 for April 2011, \$8.15 for May 2011, and \$0 for June 2011. For [REDACTED], Claimant received \$0 for March 2011, \$285.94 for April 2011, \$57.19 for May 2011, and \$57.19 for June 2011. For [REDACTED], Claimant received \$0 for March 2011, \$285.94 for April 2011, \$57.19 for May 2011, and \$57.19 for June 2011. According to the Department's calculation, Claimant received \$995.14 in monthly child support payments.

In light of the inconsistent monthly amounts received by Claimant for each child, pursuant to BEM 505, the Department should have consulted with Claimant to determine whether this irregular pattern was expected to continue or whether the past three months' child support for each child was not a good indicator of future payments. There is no evidence that the Department consulted with Claimant on this issue in this case. Further, the Department testified that it did not consider any months when Claimant did not receive child support payments. For example, the Department concluded that Claimant received \$126.73 monthly for child support for [REDACTED] ignoring the fact that for March 2011, April 2011, and June 2011, Claimant received no child support for the child. Under BEM 505, if the Department used three-months average of benefits received for each child, it should have included \$0 for those months Claimant did not receive any child support for a particular child. Because the evidence showed that the Department did not calculate Claimant's child support in accordance with BEM 505, the Department's calculation of Claimant's income for purposes of determining her eligibility for CDC benefits was erroneous.

At the hearing, Claimant also noted that the Department's calculation of her child support income resulted in a reduction of her Food Assistance Program (FAP) benefits as of July 1, 2011. While this issue was not expressly raised by Claimant in request for

hearing, because the Department's erroneous calculation of Claimant's child support in connection with her CDC budget affected her FAP budget, the Department should recalculate Claimant's FAP budget using the updated child support income figures that result when the Department calculates child support in accordance with BEM 505.

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 the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC

and improperly reduced Claimant's FAP benefits.

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 above and on the record.

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

1. Reregister Claimant's June 1, 2011, application for CDC benefits;
2. Begin reprocessing the application by recalculating Claimant's income eligibility for CDC benefits in accordance with Department policy, specifically BEM 505;
3. Issue supplements to Claimant's CDC provider for any benefits Claimant was entitled to receive, if any, from May 22, 2011, ongoing;
4. Recalculate Claimant's FAP budget based on updated figures for Claimant's child support income;
5. Issue supplements to Claimant for any FAP benefits for which Claimant was entitled to receive but did not from July 1, 2011, ongoing; and
6. Notify Claimant in writing of the Department's decision in accordance with Department's policy.



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

Date Signed: 12/05/11

Date Mailed: 12/07/11

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:

