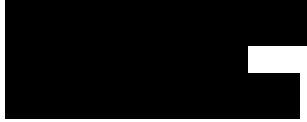


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201144764
Issue No.: 6019; 6021
Case No.:
Hearing Date: September 29, 2011
County: Macomb (36)

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 29, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Khalid Abouelazm, 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 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 for: 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 July 3, 2011, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
 due to excess income.
3. On June 14, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
 notice of the denial. closure. reduction.
4. On June 30, 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, Claimant contended that the Department improperly denied her CDC benefits from April 9, 2011 and May 22, 2011, and possibly additional periods between May 22, 2011 and July 3, 2011, when her case was closed, without explaining the reasons for the denial. Upon certification of eligibility results, the Department must notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220. Claimant testified that she never received any written notice from the Department concerning the denial of her CDC benefits for the period prior to the closure of her CDC case. At the hearing, the Department testified that, with respect to the period from April 9, 2011 to May 22, 2011, its system indicated that Claimant's case was open but incorrectly listed zero children, but the Department could not explain why Claimant was denied her CDC benefits during that period. Furthermore, the Department was unable to verify whether Claimant did in fact receive notice of the denial. Because the Department did not notify Claimant of the reasons her CDC benefits were denied for periods prior to the case closure on July 3, 2011, it failed to comply with Department policy.

Claimant also contended that the Department improperly closed her CDC case. The June 14, 2011, Notice of Case Action informed Claimant of the closure of her CDC case, effective July 3, 2011, on the basis of excess income. CDC eligibility for income eligible clients ends the earliest of the following: the requirements are no longer met, *the family has excess income*, or the need no longer exists. (Emphasis added.) BEM 703. According to the Department, Claimant's gross monthly income, which was referenced in the June 14, 2011 Notice of Case Action, only in her FAP budget, was listed as \$2395. This amount exceeds the \$1990 gross monthly income maximum that would entitle a group size of three to CDC benefits under RFT 270. However, Claimant claimed that the amount listed as her gross monthly income was incorrect because, other than in March 2011, when she worked an unusual amount of overtime, she generally earned only \$900 to \$1100 in gross income biweekly. Although the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, it must discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts (such as overtime that is not expected to recur) and must document which pay is being discarded and why. BEM 505. Further, when the income from the preceding thirty days is not a good indicator of future fluctuating or irregular income, the Department should use income for the preceding sixty or ninety days if that is a more accurate reflection of the income that will be received in the future. BEM 505. In this case, the Department testified that it did not consider Claimant's March 25, 2011 paycheck, which included the out-of-ordinary overtime income, but instead considered Claimant's March 11, 2011 paycheck and the paycheck after the March 25, 2011 paycheck in determining Claimant's gross monthly income. However, the Department could not verify the date or amount of this paycheck. Because the Department was unable to support its

calculation of Claimant's gross monthly income, it failed to satisfy its burden in showing that it properly closed Claimant's CDC case.

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:

1. Remove the negative case action closing Claimant's CDC case effective July 3, 2011;
2. Begin reprocessing Claimant's eligibility for CDC benefits for April 4, 2011, ongoing;
3. Issue supplements for CDC benefits to Claimant's current provider for any benefits Claimant was entitled to receive from April 4, 2011, ongoing, if any;
4. Notify Claimant in writing of its decision in accordance with Department policy.



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:

