

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-28207
Issue Nos.: 2014, 3015
Case No.: [REDACTED]
Hearing Date: February 29, 2012
County: Macomb (50-20)

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 February 29, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Due to excess income, did the Department properly close Claimant's case for Food Assistance Program (FAP) benefits?
2. Due to excess income, did the Department properly close Claimant's children's case for Medical Assistance (MA) coverage under Other Healthy Kids (OHK) with no deductible and provide coverage for each of the children under OHK with a \$2,735 deductible?

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 February 1, 2012, the Department denied Claimant's application closed Claimant's FAP case reduced Claimant's benefits due to excess income.
3. Based on Claimant's group's excess income, on February 1, 2012, the Department closed Claimant's children's OHK MA program with no deductible and opened an OHK program for each child with a \$2,735 deductible.
4. On January 9, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of its actions.
5. On January 19, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the Department's actions.

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, effective February 1, 2012, the Department closed Claimant's FAP case and her three children's MA coverage under the OHK program with no deductible. The children's MA coverage was changed to an OHK program with a \$2,735 deductible per child.

FAP Benefits

A non-categorically eligible, non-Senior/Disabled/Veteran (SDV) FAP group must have income below the gross and net income limits. BEM 550. At the hearing, the Department testified that Claimant's FAP group's income exceeded both limits.

Clients whose gross income is at or below 200% of the poverty level and who meet the asset test are categorically eligible for FAP benefits. BEM 213. For a group size of five, the size of Claimant's group, the applicable gross income limit is \$4,362. RFT 250.

In this case, the Department based Claimant's FAP eligibility on Claimant's FAP group's income for December 2011. The Department relied on the following biweekly paychecks from [REDACTED] for income earned by Claimant: the December 27, 2011 paystub showing a total gross payment of \$1,129.76 and the December 13, 2011 paystub showing a total gross payment of \$974.95. Based on these figures, Claimant's gross monthly earned income is \$2,262 (the sum of the two paychecks, divided by two, and multiplied by 2.15). BEM 505.

The Department relied on the following weekly paychecks from [REDACTED] for income earned by Claimant's husband: (i) the December 2, 2011, paycheck showing a total gross payment of \$564.04; (ii) the December 9, 2011, paycheck showing a total gross payment of \$565.96; (iii) the December 16, 2011, paycheck showing a total gross payment of \$446.44; (iv) the December 23, 2011, paycheck showing a total gross payment of \$555.73; and (v) the December 30, 2011, paycheck showing a total gross payment of \$588.64. Based on these figures, Claimant's husband's gross monthly earned income is \$2,340 (the sum of the five paychecks, divided by five, and multiplied by 4.3). BEM 505. The sum of Claimant's gross income and her husband's gross income is \$4,602.

Although the Department miscalculated the household's gross monthly income and applied the incorrect FAP income limit, this error was harmless. Because \$4,602, the

correct household gross income, exceeded the FAP gross income limit of \$4,362 applicable to Claimant's FAP group, the Department acted in accordance with Department policy when it closed Claimant's FAP case for exceeding the gross income limit.

At the hearing, the Department testified that it also considered Claimant's FAP group's net income. The Department improperly calculated Claimant's child support deduction, considering the average for the three-month period preceding the redetermination rather than the child support expenses, including arrearages, paid by the group during the benefit month at issue. BEM 554. However, this error was harmless because Claimant's FAP group did not have a SDV member and thus was required to meet both the gross **and** net income limits. BEM 213; BEM 550. Because Claimant's group failed the gross income test, it was unnecessary for the Department to consider the net income test.

OHK Benefits

Based on Claimant's group's gross income, the Department also closed Claimant's children's OHK program with no deductible and provided coverage with a \$2,735 deductible for each child. The monthly income limit for the OHK program with five individuals in the fiscal group is \$2,181. RFT 246. Claimant's gross income for OHK purposes is \$2,104.71, and Claimant's husband's gross income for OHK purposes is \$2,176.75. BEM 531. However, the determination of income eligibility for OHK requires calculation of the fiscal group's budgetable income and net income in accordance with BEM 536. The Department failed to provide an MA budget showing its calculation of Claimant's group's budgetable and net income and its calculation of the deductible amount. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's children's MA case under the OHK program with no deductible and provided coverage under the OHK program with a deductible of \$2,735 per child.

The Department indicated that Claimant was also considered for MiChild coverage and denied. Claimant is advised to request a hearing with respect to the Department's decision on that matter if she wishes to have that decision reviewed.

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 closed Claimant's FAP case and
- improperly closed Claimant's children's MA cases under the OHK program with no deductible.

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 with respect to closing Claimant's FAP case.

did not act properly with respect to closing Claimant's children's OHK cases with no deductible.

Accordingly, for the reasons stated above and on the record, the decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to closure of the FAP case and REVERSED IN PART with respect to closure of the children's MA case under the OHK program with no deductible.

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

1. Reinstate Claimant's children's MA case under the OHK program with no deductible effective February 1, 2012;
2. Begin recalculating Claimant's children's eligibility for MA coverage under the OHK program for February 1, 2012, ongoing in accordance with Department policy;
3. Issue supplements to Claimant for MA benefits Claimant's children were eligible to receive but did not for February 1, 2012, ongoing;
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: March 6, 2012

Date Mailed: March 6, 2012

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:

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- 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/pf

cc:

