

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

IN THE MATTER OF:



Reg. No.: 2012 31001
Issue No.: 3008, 3014
Case No.: [REDACTED]
Hearing Date: March 7, 2012
County: Wayne County DHS (31)

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 March 7, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], FIS.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

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

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant's FAP benefits were reduced on November 11, 2011 due to her student status.

3. Claimant's FAP case was closed 2/1/12 due to her failure to provide verification of the value of her car.
4. The Department did not submit evidence that it sought verification of the Claimant's car. No verification checklist was presented at the hearing.
5. Claimant provided evidence that the car was not in her name to her caseworker months before the case closed.
6. Claimant is a full time student, at the time her FAP benefits were reduced she did not present evidence that she was working at least 20 hours per week and receiving earnings.
7. On November 11, 2011, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefits due to her student status.
8. On February 1, 2012, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefits for failure to submit verification of the value of her car in a timely manner.
9. On unknown dates as no notices of case actions were provided, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.
10. On January 24, 2012, Claimant filed a hearing request, protesting the
 - denial. closure. reduction of Claimant's FAP benefits.

CONCLUSIONS OF LAW

Department policies are found 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 1997 AACRS R 400.3101-3131. 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 1997 AACS R 400.3001-3015

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 1998-2000 AACS R 400.3151-400.3180.

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 1997 AACS R 400.5001-5015.

Additionally, in October 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. In this case, while the Claimant testified that she was self employed doing tax preparation, she did not present any evidence at the hearing to establish her self employment and earnings from that employment, nor did she provide the Department at the time of her redetermination for FAP eligibility information sufficient to establish 20 hour employment as a full time student. Based upon the evidence presented, the Department correctly reduced the Claimant's FAP benefits, as she did not establish that she was working at least 20 hours a week and was paid for her self employment. It is noted that if the Claimant can establish her work hours and earnings from her self employment doing tax preparation she may be entitled to reapply for FAP benefits.

The Department also recently closed the Claimant's FAP case on 2/1/12 for failure to verify vehicle value. No verification checklist was provided and the verification screen indicated failure to provided dealer information and proof of amount owed. The Claimant credibly testified that she does not own a vehicle and provided proof to the Department that the vehicle was not in her name months before the closure, as well as advised her caseworker. The Department did not rebut this evidence, and thus its determination regarding failure to verify the vehicle value and closure of the Claimant's

FAP case was incorrect on two grounds; the first that the Claimant had no ownership of a vehicle and second that she was required to verify information on a vehicle that she did not own. Accordingly, the Department's decision is incorrect.

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 reduced the Claimant's FAP benefits 11/1/11 based upon student status improperly closed the Claimant's FAP case due to failure to verify vehicle value.

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 when it reduced the Claimant's FAP benefits. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

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 when it closed the Claimant's FAP case due to failure to verify vehicle value.

Accordingly, the Department's 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:

1. The Department shall reopen and reinstate the Claimant's FAP case retroactive to the date of closure, 2/1/12 and shall issue a FAP supplement to the Claimant for any FAP benefits, if any, she was otherwise entitled to receive in accordance with Department policy.



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

Date Signed: March 8, 2012

Date Mailed: March 8, 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:
 - 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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

