

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

IN THE MATTER OF:



Reg. No.: 201234111
Issue No.: 3002
Case No.:
Hearing Date: April 11, 2012
County: Wayne (19)

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 April 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and . Participants on behalf of the Department of Human Services (Department) included Family Independence Manager.

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 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 or about March 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On February 6, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On February 17, 2012, 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 AAC, 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, following Claimant's FAP redetermination for February 2012, the Department decreased Claimant's monthly FAP allotment from \$952 to \$337 based on an increase in her income from child support she received. The Department testified that the decrease in benefits likely affected benefits for March 2012 ongoing. Claimant filed a hearing request to dispute the Department's calculation of her FAP benefits.

At the hearing, the Department failed to produce a FAP budget for Claimant. The worker testified that she did not know what month's income was used to prepare Claimant's FAP budget but testified that she would have used Claimant's income for January 2012 to determine Claimant's FAP budget for March 1, 2012, ongoing. The Department testified that Claimant's income for January 2012 consisted of child support for each of her five children (\$435.08 for [REDACTED], \$409.27 for [REDACTED], \$409.27 for [REDACTED], \$434.09 for [REDACTED] and \$300 for [REDACTED] and Social Security Income (SSI) benefits for [REDACTED] of \$698. However, the sum of these income sources is not \$2395.63, which the Department testified was Claimant's income total. Furthermore, the evidence regarding the amount the Department used in Claimant's FAP budget for her monthly housing obligation was not clear. By failing to produce a FAP budget, the Department failed to satisfy its burden of showing that it calculated Claimant's FAP budget in accordance with Department policy. Also, the calculation of monthly child support income requires use of an average of the past three months' received payments unless changes are expected. BEM 503. If payments for the past three months vary, the Department must discuss the pattern of payment with the client to determine if the pattern is expected to continue. BEM 503. Because the Department testified at the hearing that it considered only a single month of child support income in determining Claimant's monthly child support income, it did not act in accordance with Department policy.

At the hearing, Claimant disputed the amount of child support the Department testified she received. A client's unearned income includes court-ordered direct support, which is paid directly to the client. BEM 503. In verifying the amount of child support a client receives, the Department may rely on a consolidated inquiry, a letter from the person making payment, check stub, data obtained from the Michigan child support enforcement system (MiCSES), contact with the child support specialist, or information from the Friend of the Court. BEM 503. In this case, the Department produced a printout from its computer system supporting that Claimant was the payee of the court-ordered child support indicated above for January 2012. Claimant did not present any evidence showing the amount of child support she received. In the absence of any

evidence to dispute the Department's evidence, the Department properly relied on the evidence it presented. Claimant may request a hearing with respect to the Department's recalculation of her FAP budget if she is dissatisfied with the Department's decision and may present evidence at that time to dispute the Department's calculation of her child support income.

At the hearing, Claimant also testified that she had informed her worker that her three grandchildren had moved into her home with her, resulting in her FAP group size increasing to nine. Claimant testified that she did not report this change until March 1, 2012, or thereafter, but the worker testified that there was no evidence of this change in Claimant's file. Claimant was advised to complete documentation of member add after the hearing.

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

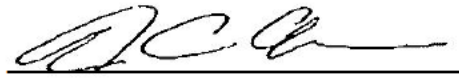
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

Accordingly, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

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

1. Begin recalculating Claimant's FAP budget for March 1, 2012, ongoing (or such time as the decrease in Claimant's FAP benefits took effect) in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements for FAP benefits Claimant was eligible to receive from March 1, 2012, ongoing (or such time as the decrease in Claimant's FAP benefits took effect); and

3. 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: April 16, 2012

Date Mailed: April 16, 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 at

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

ACE/cl

cc:

