

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 37430
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: April 2, 2012
County: Macomb County DHS (12)

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 April 2, 2012. from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and the Claimant's Authorized Hearing Representative. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES.

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 February 1, 2012 , the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. The Department included the Claimant's ex spouse earned income of \$1083 when calculating the Claimant's FAP budget for February 2012. The Department also calculated the Claimant's FAP budget as consisting of 2 group members.
4. The Claimant and his ex spouse live together but do not prepare and purchase food together. The claimant has MS and received assistance completing the redetermination. Exhibit 1.
5. On February 1, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
6. 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 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, the Department presented a FAP budget and the FAP excess shelter calculation for review at the hearing. A review of the budget with the Claimant and his Authorized Hearing Representative and ex-spouse indicated that the earned income of the claimant's ex-spouse should not have been included when computing the FAP benefits. The Claimant and his AHR, who is also his ex-spouse, both testified credibly under oath that they do not purchase and prepare meals together and that the person assisting the claimant in completing the redetermination made a mistake when the box was checked indicating otherwise. The Claimant's ex-spouse testified credibly and indicated that she shops separately for him and prepares his meals separately as he has MS and therefore the box was checked in error by the person assisting with the application. Generally, the Department is entitled to rely on responses provided by benefit recipient's answers provided with the redetermination. In this case, it was clear that the Claimant was assisted in completing the form because he has MS and the mistake was made. Based upon the information provided at the hearing, the Department incorrectly included the Claimant's ex-spouse's income and thus must recalculate the FAP benefits for February and March 2012, and shall not include the ex-spouse's earned income of \$1083 and shall not include the ex-spouse in the FAP group.

Policy addressses the issue of determining FAP group composition differently from the question as stated in the redetermination. Policy provides in pertinent part:

FAP group composition is established by determining all of the following:

Who lives together.

The relationship(s) of the people who live together.

Whether the people living together purchase and prepare food together or separately.

Whether the person(s) resides in an eligible living situation; see LIVING SITUATIONS in this item. BEM 212 page 1.

The phrase, purchase and prepare together, is meant to describe persons who customarily share food in common. Persons customarily share food in common if:

They each contribute to the purchase of food.

They share the preparation of food, regardless of who paid for it.

They eat from the same food supply, regardless of who paid for it.

In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212 page 5 The question setforth in the redetermination asks the question differently the check box states: "Buy Food, Fix Food or eat meals together? Yes / NO".

In this case the Claimant does not prepare his meals at all and does not shop, as he has MS, and his caregiver prepares his meal and buys his food separately. The question posed by the redetermination does not mirror policy as it asks if group members eat together not whether they eat from the same food supply. Eating meals together is not the issue to be resolved, and the check box is not clear. Based upon the fact that the questions posed do not mirror policy, Claimant's answer in this case and the mistake should not be held against the Claimant, even though the Department did nothing wrong based upon the checked marked answer "yes".

The FAP budget and excess shelter calculation were reviewed, and it is determined that the Department used the correct rent and granted a utility allowance of \$553, even though the Claimant's utilities are included in the rent. Based upon the foregoing, it is determined that the FAP benefits as calculate by the Department are not correct as the Claimant is a group of one and only his SSI income of \$698 and \$14 in quarterly supplement should be icluded as income when calculating FAP benefits.

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
- calculated and reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

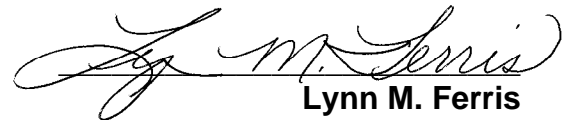
DECISION AND ORDER

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 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 is ordered to initiate recalculation of the Claimant's FAP benefit allotment for February and March 2012 and shall not include the Claimant's ex-spouse's income in the FAP budget calculation or as a group member, and the Department shall not include earned income of \$1083 attributed to the Claimant's ex-spouse when calculating FAP benefits as they do not purchase and prepare meals together.
2. The Department shall issue a FAP supplement, if any, to the Claimant for any FAP benefits he was otherwise entitled to receive.



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

Date Signed: April 3, 2012

Date Mailed: April 3, 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:

