

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

IN THE MATTER OF:



Reg. No.: 201241728
Issue No.: 3029
Case No.: [REDACTED]
Hearing Date: April 23, 2012
County: Wayne (57)

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 23, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], JET Liason.

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 April 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to Claimant being removed as a qualified member of her FAP group.
3. On March 13, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On March 19, 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, in this case, the Department found that Claimant had failed without good cause to comply with employment-related activities in connection with her Family Independence Program (FIP) benefits and closed Claimant's FIP case for a minimum of three months. Claimant did not challenge the outcome of the triage and the closure of her FIP case. However, she testified that she was not aware that the closure of her FIP case would affect her FAP benefits. She requested a hearing solely with respect to the resulting reduction of her FAP benefits.

As a result of a FIP sanction for failure to comply with employment-related activities without good cause, a client becomes a disqualified member of her FAP group. As a result, the client is excluded from the FAP group membership, but the client's earned and unearned income, including the last FIP grant (which is budgeted into the FAP budget until the end of the FIP penalty period), continues to be considered in calculating the FAP group's income. BEM 212; BEM 233B; BEM 550.

In this case, on March 13, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$200 effective April 1, 2012, because she was being removed as a qualified member of her FAP group based on her failure to participate in employment-related requirements without good cause. The figures the Department used in calculating Claimant's FAP budget, as reflected in the Notice of Case Action, show that the Department considered the prior FIP grant of \$403 as Claimant's FAP group's unearned income. The group size was reduced from two to one, based on the removal of Claimant as a qualified FAP group member. Based on these changes, Claimant's monthly FAP allotment was reduced to \$200, the maximum available to a group size of one. The foregoing evidence establishes that the Department acted in accordance with Department policy when it recalculated Claimant's FAP budget and determined her monthly FAP allotment following the noncompliance.

Although the Department testified at the hearing that Claimant would remain a disqualified FAP group member for three months, Claimant is eligible to become a qualified FAP group member at the end of April 2012, once she completes one month of disqualification, if she can establish her FAP eligibility under BEM 233B. See also BEM 229. The Notice of Case Action correctly lays out Claimant's right to reestablish FAP eligibility after the one-month sanction.

At the hearing, Claimant contended that she was not aware that the FIP sanction would affect her FAP benefits. BEM 233A requires that the Notice of Noncompliance include, among other things, information concerning the penalty that will be imposed. The Notice should indicate all programs that apply to the noncompliance and the related penalty count that applies to each. BEM 233B. In this case, the Department sent Claimant a March 6, 2012, Notice of Noncompliance informing her that a member of her

FIP, RAP, and/or FAP group was non-compliant for the first time. While the first page of the Notice referred to the second page for penalty information and none of the boxes on the second page were marked, the Notice stated, more than once, that Claimant's FAP benefits were affected and expressly advised Claimant that her FAP benefits could be closed or reduced unless she established good cause for her noncompliance. The Notice was therefore sufficient to put Claimant on notice that her FAP benefits could be affected by the outcome of the triage. Also, because Claimant conceded that she was in noncompliance and had no good cause for her noncompliance, she did not present any evidence at the hearing to challenge the outcome at the triage and the resulting reduction of her 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
- 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.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 26, 2012

Date Mailed: April 26, 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:

