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

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| | Reg. No.: Issue No.: Case No.: Hearing Date: County: | 201246654 3003 May 16, 2012 Wayne (19) |
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| ADMINISTRATIVE LAW JUDGE: Alice C. Elkin | | |
| HEARING DEC | SION | |
| This matter is before the undersigned Administration and MCL 400.37 following Claim ant's request telephone hearing was held on May 16, 2012, from the behalf of Claimant included Claim ant. Participal Human Services (Department) included Supervisor, and Eligibility Specialism. | for a hearing. Afte om Detroit, Mich ig ints on behalf of Ass | r due notice, a |
| ISSUE | | |
| Due to excess income, did the Department prope ☐ close Claimant's case ☐ reduce Claimant's be | | laimant's applic ation |
| ☐ Family Independence Program (FIP)? ☐ Food Assistance Program (FAP)? ☐ Medical Assistance (MA)? ☐ | - | sistance (AMP)? ssistance (SDA)? ent and Care (CDC)? |
| FINDINGS OF I | ACT | |
| The Administrative Law Judge, based on t he evidence on the whole record, finds as material fa | | al, and substantial |
| 1. Cla imant ☐ applied for benefits for: ☒ re | eceived benefits fo | r: |
| ☐ Family Independence Program (FIP). ☐ Food Assistance Program (FAP). ☐ Medical Assistance (MA). ☐ | | ssistance (AMP). Assistance (SDA). ent and Care (CDC). |

| 2. | On May 1, 2012, the Department |
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| 3. | On April 6, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction. |
| 4. | On April 16, 2012, Claim ant or Claimant's AHR filed a hearing request, protesting |
| | the ☐ denial of the application. ☐ closure of the case. ☒ reduction of benefits. |
| | CONCLUSIONS OF LAW |
| | epartment policies are contained in the Br idges Administrative Manual (BAM), the idges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). |
| | The Adult Medical Program (AMP) is established by 42 USC 1315, and is ministered by the Department pursuant to MCL 400.10, <i>et seq</i> . |
| Re 42 Ag thr | The Family Independence Program (FIP) was established pursuant to the Personal esponsibility and W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, USC 601, et seq. The Department (formerly known as the Family Independence tency) administers FIP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 400.3101 rough Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program fective October 1, 1996. |
| pro im Re Ag | The Food Assistanc e Program (FAP) [fo rmerly known as the Food Sta mp (FS) ogram] is establis hed by the Food St amp Act of 1977, as amend ed, and is plemented by the federal regulations contained in Title 7 of the Code of Federal egulations (CFR). The Department (formerly known as the Family Independence lency) administers FAP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 0.3001 through Rule 400.3015. |
| Se Th | The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial curity Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). e Department (formerly known as the F amily Independence Agency) administers the A program pursuant to MCL 400.10, et seq., and MCL 400.105. |
| for as | The State Disabilit y Assistance (SDA) program, which provides financial assistance disabled persons, is established by 2004 PA 344. The Department (formerly known the Family Independence Agency) administers the SDA program pursuant to M CL 0.10, et seq., and 2000 AACS, Rule 400.3151 through Rule 400.3180. |
| | The Child Development and Care (CDC) program is establishhed by Titles IVA, IVE d XX of the Soc ial 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 Fede ral Regulations, Parts 98 and 99. The Department provides services to adult and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, Claimant requested a hearing to dispute the decrease in her monthly FAP benefits to \$12 effective May 1, 2012.

At the hearing, the Departm ent explained that Claimant 's FAP benefits decreased because of an increase in the amount of child support she received. The total amount of court-ordered direct support, which are child support payments an individual receives directly from the absent parent or the Mi chigan State Disbursement Unit (MiSDU), is counted as unearned income and is considered in the calculation of a client's FAP budget. BEM 503; BEM 556. The calculation of monthly child support income requires use of an average of the past three mont hs' received payments unless changes are expected. BEM 503; BEM 505.

AΡ The Department testified that, in connection with Claimant's April 2012 F redetermination, it ran a cons olidated inquiry showing the direct child support amounts received by the Office of Ch ild Support (OCS) on behalf of Claimant's two children, for the mont hs of January 2012, February 2012, and March 2012. The consolidated inquiry showed that child support direct payments were disbursed for each child on January 4, 2012, for \$719; on Febr uary 7, 2012, for \$719; on February 28, 2012, for \$745; and on March 30, 2012, for \$719. Based on this infor Department considered the following amounts as Claimant's child support income: (i) \$719 per child for Jan uary 2012, (ii) \$1464 per child for February 2012, and (iii) \$71 9 per child for March 2012. Us ing these am ounts, the Department calculated that Claimant received a monthly average child support paym ent per child of \$967.33 and used this average in calculating Claimant's unearned income for her FAP budget.

At the hearing, Claimant dis puted the Department's calculat ion of her c hild support income and credibly testified that she had informed the Department of her concerns while it was proces sing her redetermination. Before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130.

In this case, Claimant did not deny receiv ing the child support pay ments identified on the consolidated inquiry. However, she contended that the child support payments shown on the consolidated inquiry with a payment disbursement date of February 28, 2012, were not deposited by the OCS into her account until March 1, 2012 and were intended to cover the March child supp ort due to her and the payments with a disbursement date of March 30, 2012, were not deposited by the OCS into her account until April 3, 2012 and were in tended to cover the April child support due to her. She presented bank statements to support her argument.

At the hearing, the Department contended that it was required to rely on the information in the consolidated inquiry and could not use Claimant's bank statements as a valid verification source for her child support income. BEM 503 requires that, in verifying the amount of child support a client receives, the Department rely on a consolidated inquiry, a letter from the person making payment, che ck stubs, data obtained from the Michigan Child Support Enforcement System (MiCSES), contact with the child support specialist, or information from the Friend of the Cour t (DHS-243). However, BEM 505 provide s that child support payments that are unusual and not expected to continue should not be considered in the Department's calculation of the average of child support payments received in the past three calendar mont hs. BEM 505. Therefore, while the Department properly concluded t hat it could not rely on Clai mant's bank statements in verifying the amount of child support she received and should rely on the information on the consolidated inquiry (o r in the MiCSES report pres ented by Claimant, which was consistent with the consolidated inquiry), the Department could consider whether a payment was unusual and not expected to continue and exclude that payment in calculating child support income.

In this case, in addition to Claimant's statement that each of the child support payments were intended to cover separate months, the consolidated inquiry showed that Claimant's ex-husband was or dered to pay \$1437 monthly for both children, which equals, when cents are rounded up, to \$719 per child. Therefore, the \$1464 per child shown on the consolidated inquiry for February, resulting in a monthly child support total of \$2928 for February, was unusually high. Claimant's bank statements as well as her ex-husband's current child support order supported Claimant's argument that the \$2928 payment actually represented two months' child support for the two children and was not reasonably expected to continue. Clai mant's ex-husband's prior child support n the MiC SES report, further supported Claimant's payment history, as shown o argument that her ex-husband di d not pay more than the court-orderd monthly child support. Thus, the Department did not act in accordance with Department policy when it included the February 28, 2012, payment in the calculation of Claimant's child support income for the month of February 2012.

| | Conclus ions of Law, w Judge concludes t ⊠ improperly | |
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| ☐ 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. |
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| | sons stated above and on the record, the Department's $\ \ \ $ AMF $\ \ \ $ SDA $\ \ \ $ CDC decision is $\ \ \ $ AFFIRMED $\ \ \ \ $ REVERSED. |
| | IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF |

- Begin recalculating Claimant's c hild support income for her May 1, 2012 ongoing FAP budget, in accordance with Department policy and consistent with this Hearing Decision;
- 2. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from May 1, 2012, ongoing; and
- 3. Notify Claimant of its decision in writing in accordance with Department policy.

Alice C. Elkin

Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: May 22, 2012

Date Mailed: May 22, 2012

NOTICE: Michigan Administrative Hearing S ystem (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 <u>MAY</u> 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.

2012-46654/ACE

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative Hearings

Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

