

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

IN THE MATTER OF:



Reg. No.: 2012-53034
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: June 14, 2012
County: Wayne (76)

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 June 14, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED] Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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)? |
| <input type="checkbox"/> Direct Support Services (DSS)? | |

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 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). |
| <input type="checkbox"/> Direct Support Services (DSS). | |

2. On May 31, 2012, the Department
 denied Claimant's application closed Claimant's case
due to net income exceeding the net income limit.
3. On May 16, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On May 15, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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, R 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, R 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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 State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 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, R 400.5001 through Rule 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, on February 7, 2012, Claimant requested that her four grandchildren be added to her FAP group. In connection with the request, the Department learned that Claimant's husband had earned income that had not previously been budgeted into Claimant's FAP budget. After it received the Verification of Employment (DHS-38) from Claimant's husband's employer on April 26, 2012, the Department recalculated Claimant's FAP budget and concluded that Claimant's FAP group, composed of Claimant, her husband, and the four grandchildren, was not eligible for FAP benefits because the group's net income exceeded the net income limit under the program.

The net income limit for a FAP group size of six, which was Claimant's FAP group size, is \$2500. RFT 250. In budgeting earned income, Department policy requires that the Department prospect income using a best estimate of income expected to be received during the benefit month. BEM 505. For non-child support income, the Department must use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, or, if income for the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days. BEM 505.

At the hearing, the Department presented a copy of Claimant's FAP budget showing its calculation of Claimant's net income. The budget showed that the household's earned gross monthly income was \$3280. The Department testified that, in calculating Claimant's FAP group's gross monthly earned income, it input into its system all of Claimant's husband's weekly gross income for the period from August 5, 2011, to April 27, 2012, as indicated on the Verification of Employment submitted by Claimant's spouse's employer to the Department on April 26, 2012. In basing the income calculation on income received over a ten-month span of time rather than the preceding 90 days, the Department failed to act in accordance with Department policy.

Claimant's FAP budget also included \$899 of unearned income, which consisted of (i) \$420 in Family Independence Program (FIP) benefits received by the household, (ii) Claimant's grandson's monthly gross Social Security Insurance (SSI) benefits of \$465, and (iii) \$14 in gross monthly State SSI Payments (SSI) benefits, based on quarterly \$42 payments made to Claimant's grandson in connection with his SSI benefits. The Department properly includes gross monthly SSI, FIP and SSP benefits received by a group in the group's FAP budget. BEM 503. Claimant acknowledged receiving the FIP and SSI benefits in the amounts indicated by the Department but testified that she did not receive the SSP payments, contending that they were deposited on a benefits card retained by the child's mother. Because the Department did not satisfy its burden of establishing that Claimant's FAP group received the SSP benefits, it did not act in

accordance with Department policy when it included the \$14 monthly SSP benefits in Claimant's FAP budget.

Because the Department did not establish that it acted in accordance with Department policy in calculating Claimant's husband's earned income and did not satisfy its burden of showing that Claimant's FAP group received the grandson's quarterly SSP benefits, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget and used that budget to conclude that Claimant had net income in excess of the limit for her FAP group size.

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC DSS.

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 DSS 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. Reinstate Claimant's FAP case as of June 1, 2012;
2. Begin recalculating Claimant's FAP budget for June 1, 2012 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from June 1, 2012, ongoing; and
4. 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: June 18, 2012

Date Mailed: June 18, 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:

