

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-53118
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: September 5, 2012
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 hearing was held on September 5, 2012, in Madison Heights, Michigan. Participants on behalf of Claimant included Claimant and Claimant's Authorized Hearing Representative, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly calculate Claimant's deductible for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant was was not provided with a Verification Checklist (VCL) (DHS-3503). (Exhibit 3)

3. The VCL stated that Claimant was to submit one of the following: "Recent business receipts to date," "recent accounting or other business records to date" or "recent income tax return." (Exhibit 3)
4. Claimant provided recent accounting or other business records. (Exhibit 4, pp 28-31)
5. The Department determined Claimant's medical deductible based in part on 25% of the gross business income.
6. On April 2, 2012, the Department sent notice of the MA deductible.
7. On May 8, 2012, Claimant filed a hearing request, protesting the MA deductible.

CONCLUSIONS OF LAW

Department policies are found 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, 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.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105; BAM 130. The client should be allowed 10 calendar days to provide the verification. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. *Id.* “Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.” *Id.*

In the present case, Claimant submitted an application for MA on December 29, 2011. (Exhibit 1) The Department then learned that Claimant was receiving business income. On March 8, 2012, the Department issued a VCL which instructed Claimant to submit one of the following: “Recent business receipts to date,” “recent accounting or other business records to date” or “recent income tax return.” (Exhibit 3) Claimant submitted the accounting or business records. (Exhibit 4, pp 28-31) Claimant also submitted a Self-employment Income and Expense Statement form (Exhibit 5), which form states in part, “If you wish to claim actual expenses, complete Section III and attach proof of expenses. If you do not provide proof of expenses, you will be given the standard allowable expenses for your type of self-employment income.”

The Department argues that since Claimant did not provide receipts, she did not provide proof of expenses. However, the VCL which the Department issued to Claimant allowed for submission of accounting or business records, so it would be logical for Claimant to conclude that she was cooperating with the Department in providing the requested information to obtain credit for the listed business expenses. Since the Department worker was not satisfied with the business records, it was incumbent upon the Department to issue an additional VCL, specifically requesting receipts. The Department did not issue an additional VCL, but instead it calculated Claimant’s business income using the standard allowable expenses.

Based on the above information, I find that Claimant cooperated with the Department to the best of her understanding, and without the issuance of an additional VCL requesting receipts, the Department’s instructions were not clear.

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 improperly calculated Claimant’s MA deductible.

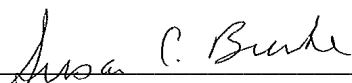
DECISION AND ORDER

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 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. Initiate recalculation of Claimant's MA deductible, effective December 1, 2011 and ongoing.
2. The Department shall make clear in writing what is requested from Claimant with regard to receipts of business expenses.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 18, 2012

Date Mailed: September 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

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cc:

