

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 54050
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 20, 2012
County: Wayne County DHS (19)

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 June 20, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and his Authorized Hearing Representative, Khalil Najafi. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input 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 required to submit requested verification by 2/6/12.

3. The Claimant and his spouse receive only SSI income from the Social Security Administration and receive no other unearned income.
4. On March 1, 2012, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits.
5. On 3/2/12, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.
6. On 5/6/12, Claimant filed a hearing request, protesting the
 - denial of claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

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 1997 AACS R 400.3101-3131. 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 1997 AACS R 400.3001-3015

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 1998-2000 AACS R 400.3151-400.3180.

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 1997 AACRS R 400.5001-5015.

Additionally, after a thorough review of the documentary evidence submitted by both parties, the evidence demonstrates that the Department's request for verification of unearned income was unclear and was responded to by the Claimant indicating that he did not understand what the Department was requesting. Exhibit 4 and Claimant Exhibit 1 and 2. Based upon this evidence, the Department did not properly close the Claimant's FAP case based upon failure to verify information, as the verification was unclear and not specific. The Claimant also credibly testified that both he and his spouse receive SSI income each month in the amount of \$349, and that is all the income they receive. The Claimant's testimony is also consistent with the information he provided to the Department as part of the redetermination that he completed in January 2012. Exhibit 1. For these reasons I find that the best available information of the unearned income received by the Claimant is his sworn testimony provided under oath at the hearing.

At the hearing the Department explained that it was seeking to verify a reference on the Claimant's and Claimant's spouse's SOLQ report that indicates further unearned income is received by them in addition to SSI and is called "support and maintenance income" of \$184.66. The Claimant credibly testified that he and his spouse receive no other income other than SSI, and thus is being asked to verify income that he does not receive. Claimant Exhibit 1 and 2. If the Department seeks further verification from the Claimant regarding this alleged income, the Claimant now understands that he must ask Social Security to determine if they can identify what this reference to income is and whether he receives this amount. If the Claimant is otherwise unable to verify the income through SSA then the Department is required to use the best available information, which is the Claimant's sworn testimony and the SOLQ reports for both the Claimant and his spouse, which show SSI amounts received and must use only the SSI 0income when computing Claimant's FAP benefits. BAM 130.

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

closed Claimant's case.

denied Claimant's application.

reduced Claimant's benefits.

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. The Department shall reinstate the Claimant's FAP case retroactive to the date of closure (3/2/12), and shall calculate the FAP benefits based upon SSI income received by the Claimant and his spouse.
2. If the Department seeks further verification from the Claimant to determine if he and his spouse receive "in kind support and maintenance" of \$184. 66 per month as shown on the SOLQ report presented at the hearing, if SSA cannot explain what this reference to income is then the Department shall not require further explanation from the Claimant and shall continue to base the Claimant's FAP benefit calculation on the SSI amounts received by Claimant and his spouse.


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

Date Signed: June 25, 2012

Date Mailed: June 25, 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:

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- 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:

