

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

IN THE MATTER OF:



Reg. No.: 2012-58593
Issue No.: 3015
Case No.:
Hearing Date: July 12, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 July 12, 2012, from Detroit, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included .

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 June 15, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On June 5, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On June 8, 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 AACS, 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.

At a semi-annual review, the Department noticed that Claimant had previously reported sources of income, which had since stopped, for which the Department had not requested verification. The Department sent out a verification request to Claimant for proof that the income had stopped; however, when some verifications were not returned, the Department considered Claimant as still receiving that income from the job and added it to her gross income. Claimant was subsequently disqualified for the FAP program.

One of the jobs, for the [REDACTED], is being counted twice. The Department argues that because Claimant went on pregnancy leave for that job, her income stopped, and the Department was in its right to count the job twice without some verification that Claimant had stopped working there for a period of time. Claimant returned a verification that showed she still currently works at [REDACTED].

The Administrative Law Judge feels that counting this job twice is a misreading of policy.

While Claimant did need to return verification of a change in income that would increase food benefits, this verification was required at the time of the change in income, which was in October 2011. Claimant was on pregnancy leave; at no point would this be considered a job termination. Claimant is not required to return verification of a job loss for this job, because the job was never lost. Claimant's income returned to its normal amount when Claimant returned to the job. The fact that verification was never requested by the Department for the decrease in income while Claimant was on leave has no bearing on her current income; at most, there is a question of whether or not Claimant received an FAP overissuance during the time period Claimant was allegedly on leave, and the Department may request verifications to that extent. To read the policy as to require a single job to be counted twice, when no party is seriously alleging that Claimant is working two jobs with the same company and pulling two paychecks, simply because Claimant took a leave of absence is disingenuous at best. Therefore, the Department is incorrect to be counting this job in Claimant's income twice.

The other job at issue is alleged by Claimant to be the same job; it was entered into the system that claimant was employed by [REDACTED] when, in fact, Claimant was a contractor for [REDACTED]. While it is understandable that the Department may want to verify this fact, Claimant was unable to make contact with Beth Sly to get the verifications, despite a reasonable effort. BAM 130 states that if a claimant is unable to return verifications despite a reasonable effort, the best information available is to be used. If no information is available, the caseworker is to use their best judgment.

Claimant returned a host of verifications in order to sort out the Department's request. Claimant turned in pay stubs and verification sheets for several jobs; on the verification for [REDACTED], Claimant noted that she was unable to contact this person. The Department did not attempt a collateral contact. There is no indication in the evidence that Claimant made anything less than a reasonable effort, given the sheer volume of returned information; therefore, the Department should have attempted a collateral contact, and if that failed, relied on the best available information or judgment, per BAM 130.

The evidence of record indicates that Claimant is currently employed at [REDACTED]. Per Department testimony, there are no serious allegations that Claimant is currently employed anywhere else. The Department was incorrect to count a job twice in Claimant's income and should have made more reasonable attempts to verify the [REDACTED] jobs, or use their best judgment. For these reasons, the undersigned holds that the Department incorrectly calculated Claimant's income, and must recalculate the income in question.

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, the Department's AMP FIP FAP MA SDA CDC 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. Recalculate Claimant's income, removing duplicate jobs, and using the best available information and judgment as to Claimant's current income.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 25, 2012

Date Mailed: July 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:
 - 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

RJC/pf

cc:

