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

#### IN THE MATTER OF:



Reg. No.: 2012-73537

Issue No.: 3014

Case No.:

Hearing Date: October 1, 2012 County: Oakland (63-02)

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 telephone hearing was held on October 1, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included

## ISSUE

- 1. Did the Department correctly include Claimant in the same Food Assistance Program (FAP) group as the children for whom he is a guardian and with whom he lives?
- Did the Department properly deny Claimant FAP benefits due to excess assets in the FAP group?

## **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:		
	<ul> <li>☐ Family Independence Program (FIP).</li> <li>☐ Food Assistance Program (FAP).</li> <li>☐ Medical Assistance (MA).</li> </ul>	<ul> <li>☐ Adult Medical Assistance (AMP).</li> <li>☐ State Disability Assistance (SDA).</li> <li>☐ Child Development and Care (CDC)</li> </ul>	

2.	The Department  ☐ closed Claimant's case ☐ calculated Claimant's benefits.				
3.	On August 24, 2012, Claimant filed a hearing request, protesting the ⊠ denial of the application. ☐ closure of the case. ☐ calculation.				
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, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.					
pro im Re Ag	The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) ogram] is established by the Food Stamp Act of 1977, as amended, 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 Jency) administers FAP pursuant to MCL 400.10, et seq., and 1999 AC, Rule 0.3001 through Rule 400.3015.				
Se Th Ag	The Medical Assistance (MA) program is established by the Title XIX of the Social ecurity 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 Jency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 0.105.				
	The Adult Medical Program (AMP) is established by 42 USC 1315, and is ministered by the Department pursuant to MCL 400.10, et seq.				
for Se pro	The State Disability Assistance (SDA) program, which provides financial assistance disabled persons, is established by 2004 PA 344. The Department of Human ervices (formerly known as the Family Independence Agency) administers the SDA ogram pursuant to MCL 400.10, et seq., and 2000 AACS, Rule 400.3151 through alle 400.3180.				
an 19	The Child Development and Care (CDC) program is established by Titles IVA, IVE d XX of the Social Security Act, the Child Care and Development Block Grant of 90, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. e 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.

#### BEM 212 instructs:

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

. .

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period.

A caretaker is a related or unrelated person who provides care or supervision to a child(ren) **under** 18 who lives with the caretaker but who is **not** a natural, step or adopted child. This policy does **not** apply to foster children (see below). A person acting as a parent and the child(ren) for whom he acts as a parent who live with him **must** be in the same group.

In the present case, Claimant does not deny that he lives with his three grandchildren and that he is the legal guardian of the grandchildren. Claimant argues that he should not be included in the same FAP group as his grandchildren because he is their guardian and, therefore, not obligated to support them with his own money. Even if it is true that Claimant is not obligated to support the grandchildren with his own money, this does not vitiate the Department policy that states, "A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group." BEM 212, p. 1. The Department was, therefore, correct in including Claimant in the same group as his grandchildren.

Claimant does not deny that at the time of the FAP application, his assets were in excess of \$5,000.00. Therefore, Claimant's group was not eligible for FAP, per BEM 400, due to excess assets. Claimant did not argue that any of his assets met the exemption requirements as set forth in BEM 400.

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

$\boxtimes$	properly denied Claimant's application	improperly denied Claimant's application
	properly closed Claimant's case	improperly closed Claimant's case
	properly calculated Claimant's benefits	improperly calculated Claimant's benefits

for:
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 \infty \text{did act properly.}  \text{did not act properly.}
Accordingly, the Department's $\square$ AMP $\square$ FIP $\boxtimes$ FAP $\square$ MA $\square$ SDA $\square$ CDC decision is $\boxtimes$ AFFIRMED $\square$ REVERSED for the reasons stated on the record.

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

Date Signed: October 5, 2012

Date Mailed: October 5, 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 mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing 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.

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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

# SCB/pf

