

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

IN THE MATTER OF:



Reg. No.: 201274004
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: October 3, 2012
County: Wayne (19)

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 October 3, 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], Eligibility 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 March 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to net income exceeding the limit.
3. On August 18, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 28, 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 Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 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, following a July 2012 redetermination, the Department sent Claimant a August 18, 2012 Notice of Case Action informing him that his FAP case closed effective March 1, 2012 based on his FAP group's net income exceeding the FAP net income limit.

FAP Benefits for March 1, 2012 to August 31, 2012

The Department stopped paying Claimant FAP benefits beginning March 1, 2012, and Claimant confirmed that he had not received benefits since March. However, in July 2012, the Department sent Claimant a redetermination, which Claimant completed and submitted despite the fact that he was not receiving FAP. The Department then calculated Claimant's FAP budget on the basis of the information provided in the redetermination and sent Claimant a Notice of Case Action closing his FAP case effective March 1, 2012, on the basis that the group's net income exceeded the net income limit for FAP eligibility. However, the March 2012 closure of Claimant's FAP case for excess income was based on information from the redetermination submitted in July or August 2012.

The Department must notify a client in writing of negative actions, which includes the termination of benefits, by generating the appropriate notice of case action unless the action involves FAP benefits where no notice is required. BAM 200 (July 1, 2012), pp 1, 4. In this case, the Department was unable to present any evidence concerning the reason it stopped paying Claimant FAP benefits in March 2012 but did not provide notice of the closure until August 18, 2012. Under these circumstances, the Department failed to show that it acted in accordance with Department policy when it closed Claimant's case as of March 1, 2012 based on information Claimant submitted in connection with a July or August 2012 redetermination.

Closure of FAP Case Effective September 1, 2012

Because the August 18, 2012 Notice of Case Action closing Claimant's FAP case relied on a FAP budget prospecting Claimant's net income for September 2012, ongoing, it is appropriate to consider whether the Department could properly close Claimant's FAP case as of September 1, 2012 on the basis that Claimant's net income exceeded the FAP net income limit. For a FAP group size of three, the size of Claimant's FAP group at the time of the redetermination, the net income limit is \$1545. RFT 250 (October 1, 2011), p 1.

At the hearing, the Department produced a copy of the FAP budget for September 2012 showing the calculation of Claimant's net income at \$2378. Claimant confirmed that he had a FAP group size of three at the time of his redetermination and that he had monthly gross Retirement, Survivors and Disability Insurance (RSDI) income of \$1245. The Department testified that it used \$900 for Claimant's monthly housing expenses. Although Claimant testified that he had been paying \$1000 monthly beginning August 1, 2012, he admitted that he had not provided verification of increased rent to the Department. Because Claimant was a senior/disabled/disabled veteran (SDV) member of his FAP group, he was eligible for a medical deduction for expenses exceeding \$35. BEM 554 (January 1, 2011), p 1. The Department testified that Claimant had provided verification of certain medical expenses and was eligible for a \$65 medical deduction.

The Department testified that Claimant's daughter, who was a member of his FAP group at the time of the redetermination, had gross monthly earned income which totaled \$[REDACTED]. At the hearing, the Department testified that it based the calculation of the daughter's income on the following pay stub information it retrieved from the Work Number, the Department's data exchange system with employers: a July 20, 2012 paycheck for \$[REDACTED], an August 1, 2012 paycheck for \$[REDACTED] and an August 15, 2012 paycheck for \$[REDACTED]. Claimant testified that he was not aware of his daughter's earnings and did not dispute these figures or contend that any payment was out of the ordinary. See BEM 505 (October 1, 2010), p 4. The sum of the three paychecks, divided by three and multiplied by 2.15, as required by Department policy for pay received biweekly, results in earned monthly income of \$[REDACTED] consistent with the Department's calculation. See BEM 505, p 6.

A review of the FAP budget based on the foregoing figures and information shows that the Department properly calculated Claimant's net income as [REDACTED]. Because Claimant's net income of \$[REDACTED] exceeds the FAP net income limit of \$1545, the Department acted in accordance with Department policy when it closed Claimant's FAP case as of September 1, 2012.

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 failed to satisfy its burden of showing that it properly closed Claimant's FAP case as of March 1, 2012 but established that it properly closed Claimant's FAP case as of September 1, 2012.


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 properly closed Claimant's FAP case as of September 1, 2012, but did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to pay Claimant any FAP benefits between March 1, 2012, and August 31, 2012.

Accordingly, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED.

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 March 1, 2012;
2. Begin recalculating, in accordance with Department policy, Claimant's FAP eligibility and benefit amount for the period from March 1, 2012 through August 31, 2012, seeking any verifications from Claimant necessary to complete the budgets;
3. Issue supplements for any FAP benefits Claimant was eligible to receive but did not between March 1, 2012, and August 31, 2012; 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: 10/12/2012

Date Mailed: 10/12/2012

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.

201274004/ACE

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:



MAHS