

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

IN THE MATTER OF:



Reg. No.: 2012-74926
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: October 29, 2012
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 29, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and witness [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] ams, Assistance Payments Supervisor.

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 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On August 13, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On August 24, 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 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.

Additionally, the following findings of fact and conclusions of law are made in this case. On April 1, 2012, Claimant was approved for FAP benefits of \$193 for a household size of two persons. Dept. Exh. 1, p. 6. Before June 1, 2012, the Department incorrectly determined that Claimant was purchasing and preparing food with Mari Bem. Based on this information, on June 1, 2012, the Department reduced Claimant's FAP benefit to \$88. On October 1, 2012, the Department corrected the error and increased Claimant's FAP benefits to the correct benefit level.

The dispute in this case concerns the four months of June-September, 2012, when Claimant received \$88 FAP benefits. At the hearing Claimant testified that his Redetermination form, which he did not fill out himself, erroneously stated that he and Bem purchased and prepared food together. Claimant testified this was not true, and witness Bem corroborated his testimony.

Bridges Eligibility Manual 212, "Food Assistance Program Group Composition," sets forth the policy for determining when people share food in common. The group must contribute to the purchase of food, share the preparation, and eat from the same food supply. Department of Human Services Bridges Eligibility Manual (BEM) 212 (2012), p. 5.

In this case it is found and determined based on all of the evidence taken as a whole, that the Department erred by including Mari Bem in the household group for FAP

purposes. It is found and determined that Claimant and Bem do not purchase, prepare and eat in a common group. The testimony of Claimant and witness Bem is that they do not meet these requirements, and this testimony is credible and unrebutted. The testimony is sufficient to establish that Claimant and Bem are not sharing food in common. The Department shall be reversed, and the Claimant's FAP benefits for June-September, 2012, shall be restored.

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. Initiate procedures to review and recalculate Claimant FAP benefits for June-September, 2012.
2. Initiate procedures to provide retroactive supplemental benefits to Claimant for June-September, 2012, at the benefit level to which he is entitled.
3. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 30, 2012

Date Mailed: October 31, 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

JL/tm

cc:

