

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

IN THE MATTER OF:



Reg. No.: 2012-10555
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: December 5, 2011
County: Wayne (17)

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 December 5, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED]

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 October 1, 2011, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to increased income.
3. On October 14, 2011, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On October 26, 2011, 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 AAC, 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.

Additionally, Claimant requested a hearing in connection with a reduction in his FAP benefits effective October 1, 2011, from \$ 200 per month to \$16 per month. Upon Claimant's verification of housing expenses of \$158 per month, the Department recalculated Claimant's FAP budget and increased his benefits to \$69 per month effective November 1, 2011.

At the hearing, the Department produced Claimant's FAP budget for October 1, 2011, and November 1, 2011. The Department testified that it determined Claimant's gross monthly income based on biweekly earned income payments of \$530 received by Claimant. Claimant confirmed the amount of his biweekly payments. In determining monthly income, the Department properly multiplied Claimant's biweekly payments by 2.15 and determined that Claimant's gross monthly earned income totaled \$1139. BEM 505. A review of Claimant's FAP budget also indicates that the Department properly calculated Claimant's excess shelter deduction beginning November 1, 2011, based on his monthly housing obligation of \$158. RFT 255; BEM 554.

However, while the Department testified that Claimant had child support expenses totaling \$95.18 per month, it did not include these expenses in Claimant's FAP budget. The Department must consider current and arrearage child support expenses a client has paid as deductions in the client's FAP budget. BEM 554. At the hearing, the Department testified that Claimant had paid this monthly child support obligation. Further, Claimant testified that the child support obligations were deducted from his biweekly checks. Because the Department failed to include Claimant's child support expenses as a deduction in his FAP budget, the Department did not act in accordance with Department policy in calculating Claimant's FAP budget.

At the hearing, Claimant also expressed concerns that the Department improperly denied him his FAP benefits of \$200, the same amount he had received prior to the redetermination, pending a decision in connection with his hearing request. However, the reduction of FAP benefits resulting at a redetermination is not a negative action entitling Claimant to have FAP benefits paid in the same amount as paid prior to the redetermination, despite the fact that a timely request for hearing is made. See BAM 220. Thus, the Department acted in accordance with Department policy with respect to the amount of the FAP benefits paid to Claimant while his hearing request was pending.

It should further be noted that, at the hearing, Claimant indicated that his child was living with him in his home. If Claimant can verify this information as required by the Department, he is encouraged to apply to have his child added to his FAP group, which may result in an increase in his monthly FAP allotment.

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 above and 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. Begin recalculating Claimant's FAP benefits for October 1, 2011, ongoing, in accordance with Department policy;
2. Issue supplements, if any, to Claimant for FAP benefits Claimant was entitled to receive but did not from October 1, 2011, ongoing;
3. 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: December 20, 2011

Date Mailed: December 20, 2011

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

ACE/cl

cc:

