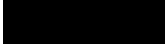


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**



IN THE MATTER OF:



Reg. No.: 2012-27210
Issue No.: 3015
Case No.: 
Hearing Date: February 22, 2012
County: Wayne (82-43)

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 February 22, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included 


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 January 1, 2011, the Department
 denied Claimant's application closed Claimant's case
due to gross income exceeding the gross income limits and simplified reporting
income exceeding 130% of the federal poverty income level.
3. On January 24, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 17, 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 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, R 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, R 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 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 2000 AAC, R 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, R 400.5001 through Rule 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, the Department testified that, in connection with Claimant's FAP redetermination on December 11, 2011, it concluded that Claimant's FAP group's gross income exceeded the gross income limit for her group size. Accordingly, on January 24, 2012, it closed Claimant's FAP case effective January 1, 2012. At the hearing, the Department noted that Claimant had reapplied for benefits on January 13, 2012, and had been denied, but Claimant specified at her hearing that she had requested a hearing only with respect to the closure of her FAP case in connection with her redetermination, not the denial of her FAP application.

In calculating Claimant's gross income in connection with her FAP redetermination, the Department considered Claimant's son's earned income as well as Claimant's earned income. However, Claimant testified at the hearing that her adult son had left her home on October 30, 2011, and she had informed the Department of this change in her completed redetermination. The Department testified that it did not have the original redetermination form completed by Claimant but acknowledged that the copy Claimant had brought to the hearing showed that Claimant's son had left Claimant's home. The Department is required to verify eligibility factors based on information in the completed redetermination. BEM 210. Because Claimant's son was no longer living with Claimant at the time of her redetermination, he was no longer a member of her FAP group and, therefore, his income should not have been considered in calculating Claimant's gross income. See BEM 212; BEM 505; BEM 550. Thus, the Department did not act in accordance with Department policy when it included Claimant's son's income in the calculation of Claimant's gross income.

At the hearing, the Department contended that Claimant's son had returned to Claimant's home in January 2012, and his income was, therefore, properly considered in Claimant's FAP budget prepared in connection with the redetermination. Claimant acknowledged that her son returned to her home on January 6, 2012. However, because Claimant's case closed effective as of January 1, 2012, the return of Claimant's son to Claimant's FAP group was a change Claimant would be required to report in accordance with Department policy and one which would affect FAP benefits for months after January 2012. See BEM 212; BEM 505. Thus, the Department did not act in accordance with Department policy when it considered Claimant's son as part of Claimant's FAP group when her case was closed effective January 1, 2012, and the son did not return to the home until January 6, 2012. Furthermore, Claimant credibly

testified that her son had not worked between January 12, 2012, and February 21, 2012. Because the Department did not produce any evidence showing that Claimant's son had income in January 2012 when he returned to Claimant's group, the Department failed to act in accordance with Department policy when it included Claimant's son's income from December 2011 in determining FAP eligibility for January 1, 2012 ongoing.

Furthermore, the Department was unable to explain how it determined Claimant's earned income in calculating her gross income in the redetermination. It was unclear from the testimony whether the Department used Claimant's income from employment that Claimant credibly testified she had informed the Department had ended on October 27, 2011, or from new employment that began in January 2012, relying on a paycheck that Claimant received on January 12, 2012, or from both. At the hearing, the Department contended that Claimant had never verified that her employment in 2011 had ended until the date of the hearing, at which time she handed the Department a Verification of Employment completed by her prior employer showing that her employment had ended on October 27, 2011. However, the Department has the responsibility of telling the client what verification is required, how to obtain it, and the due date. BAM 130. At the hearing, Claimant credibly testified that the Department had never asked her to provide documentary verification concerning the termination of her prior employment. She testified that she got the Verification of Employment form from her local office the morning of the hearing at the suggestion of her mother, a former Department worker, brought it to her former employer, and had her former employer complete it. The Department verified that the completed form was dated the date of the hearing, consistent with Claimant's testimony. Claimant credibly testified that she advised her worker in connection with her redetermination that she had worked only a single day and earned only \$69 after her prior employment had ended. Under these circumstances, the Department did not act in accordance with Department policy to the extent that it used Claimant's income from her prior employer in calculating her gross income.

The Department could consider Claimant's new employment income if Claimant was aware at the time of her redetermination that she was to begin new employment in January 2011. BEM 505. Otherwise, the Department would be required to process the change in Claimant's income in accordance with Department policy. BEM 505.

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

- | | |
|---|---|
| <input type="checkbox"/> properly denied Claimant's application | <input type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input checked="" type="checkbox"/> improperly closed Claimant's case |

for: AMP FIP FAP MA SDA CDC DSS.

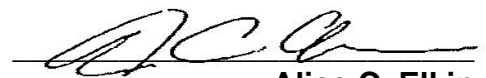
DECISION AND ORDER

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 DSS 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. Reinstate Claimant's FAP case effective January 1, 2012;
2. Begin recalculating Claimant's FAP budget and redetermining Claimant's FAP income eligibility for January 1, 2012, based on Claimant's circumstances as of January 1, 2012, in accordance with Department policy;
3. Process changes in Claimant's group size and income for January 1, 2012, ongoing in accordance with Department policy;
4. Issue supplements for any FAP benefits Claimant was otherwise eligible to receive but did not from January 1, 2012, ongoing; and
5. 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: March 1, 2012

Date Mailed: March 1, 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:

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- 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/pf

cc:

