

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

IN THE MATTER OF:



Reg. No.: 201227458
Issue No.: 3002
Case No.:
Hearing Date: March 8, 2012
County: Macomb (20)

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 March 8, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Specialist.

ISSUE

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 December 1, 2011 and February 1, 2012, the Department
 denied Claimant's application closed Claimant's case
 reduced Claimant's benefits.
3. On November 30, 2011, and January 4, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
4. On January 10, 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 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 AACCS, 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 to dispute the reduction of her FAP benefits following her sanction under the Family Independence Program (FIP) for failure to participate in employment-related activities. Claimant acknowledges that she was sanctioned under the FIP program for failure to participate in employment-related activities.

December 2011 FAP Benefits

As a result of her FIP sanction, Claimant became a disqualified member of her FAP group so that, while her earned and unearned income would continue to be considered in calculating her FAP group's income, she was excluded from the FAP group membership. BEM 212; BEM 550. On November 30, 2011, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would decrease to \$316 effective December 1, 2011, because she was being removed as a qualified member of her FAP group based on her failure to participate in FIP-related requirements without good cause. However, Claimant's FIP sanction did not begin until January 1, 2012. Furthermore, notice of the FAP disqualification on November 30, 2011, a day before the disqualification took effect, was not timely. BEM 233B. Thus, the Department did not act in accordance with Department policy when it removed Claimant from her FAP group as a disqualified member for the month of December 2011 before Claimant was sanctioned under the FIP program.

January 2012 FAP Benefits

The Department used the figures indicated on the November 30, 2011, Notice of Case Action to calculate Claimant's January 2012 \$316 FAP allotment. Claimant's FAP budget consisted of earned income of \$613, unearned income of \$285, a standard deduction of \$146, shelter expenses of \$520, and the heat and utility standard deduction of \$553. The Department and Claimant both verified that the \$285 unearned income was Claimant's FIP allotment prior to her sanction. In calculating a FAP budget following a FIP-related noncompliance, the Department budgets the last FIP grant amount into the FAP budget and the FIP grant is not removed from the FAP budget until the end of the FIP penalty period. BEM 233B. Thus, the Department properly included Claimant's prior FIP grant of \$285 as unearned income, even though Claimant did not receive this amount beginning January 1, 2012.

At the hearing, Claimant verified her monthly shelter expenses of \$520, and both parties indicated that the \$613 earned income amount was the amount that had previously been budgeted. A review of Claimant's FAP budget based on the foregoing figures and a group size of two (removing Claimant as a disqualified FAP group member and counting Claimant's two children as qualified FAP group members) shows that the Department calculated Claimant's FAP benefits of \$316 for January 2012 in accordance with Department policy. BEM 530; BEM 556; RFT 255; RFT 260.

February 2012 ongoing FAP Benefits

On January 4, 2012, the Department sent Claimant a Notice of Case Action decreasing her monthly FAP benefits to \$275 beginning February 1, 2012. The Department was unable to explain the reason for this decrease. While the Department initially testified that the change was due to an increase in Claimant's earned income, the Notice of Case Action indicated that the budgeted earned income was \$613, which was the same amount as in the prior budget. The Notice explained that the decrease in FAP benefits was due to an increase in the amount of Claimant's unearned income to \$420. However, Claimant credibly testified that, prior to her FIP sanction, she was receiving FIP benefits of \$285. Once Claimant's FIP case closed on January 1, 2012, she was not receiving any FIP benefits, and Claimant credibly testified that she did not have any other source of unearned income. The Department was unable to explain its basis for finding that Claimant's unearned income had increased from \$285 to \$420 after her FIP case had closed. Thus, the Department should have continued to budget the \$285 FIP grant as Claimant's unearned income in her FAP budget until the end of the FIP penalty period. BEM 233B. By failing to do so, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget for February 1, 2012, ongoing.

Claimant's Disqualification as a FAP Group Member

At the hearing, there was also some confusion regarding the length of Claimant's FAP disqualification. A client is disqualified from her FAP group for a minimum of one month for the first occurrence of noncompliance or for a minimum of six months for second or subsequent occurrences, resulting in a decrease in FAP benefits until she reestablishes FAP eligibility as required under BEM 233B. See BEM 229; BEM 233B. The November 30, 2011, Notice of Case Action informed Claimant that the FAP disqualification would continue for one month. The Department failed to present any evidence that Claimant had been previously disqualified from her FAP group for noncompliance. Because Claimant has completed the minimum one-month disqualification period, if Claimant can establish her FAP eligibility under BEM 233B, the Department must add her back to her FAP group as a qualified member.

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, for the reasons stated above and on the record, the Department's AMP
 FIP FAP MA SDA CDC 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. Begin recalculating Claimant's FAP budget for December 2011 to add Claimant as a qualified member of her FAP group;
2. Begin recalculating Claimant's FAP budget for February 1, 2012, until Claimant's FIP sanction period expires, to budget a \$285 FIP grant as her unearned income;
3. Issue supplements for any FAP benefits Claimant was otherwise eligible to receive but did not for December 1, 2011, ongoing; and
4. Notify Claimant 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 14, 2012

Date Mailed: March 14, 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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

