

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-28660
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: [REDACTED] 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 27, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the 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 February 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On January 17, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On January 25, 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, the Department testified that Claimant's monthly FAP benefits were reduced effective February 1, 2012, because of an increase in Claimant's gross monthly Retirement, Survivors, and Disability (RSDI) income, effective January 1, 2012.

At the hearing, the Department produced Claimant's February 2012 FAP budget showing that Claimant had gross monthly earned income of \$277 as a Child Development and Care (CDC) provider and gross monthly unearned income of \$691 from her RSDI benefits. Claimant acknowledged that she received monthly RSDI benefits of \$691. However, she denied receiving monthly gross earned income of \$277, contending that she received biweekly CDC provider payments of \$67.50. The Department testified that it based its calculation of Claimant's monthly gross earned income on CDC payments she received on January 26, 2012, of \$144.45 and on December 29, 2011, of \$135. The Department was unable to explain why paychecks from two different months were combined. The Department's testimony that it relied on the January 26, 2012, paycheck is also inconsistent with the fact that the Notice of Case Action advising Claimant of her reduced FAP benefits was sent on January 17, 2012, before Claimant received her January 26, 2012, CDC payment. Thus, the Department failed to satisfy its burden of establishing its calculation of Claimant's income for her FAP budget.

Further, the Department produced a computer printout showing Claimant's CDC provider income from September 1, 2011, to January 26, 2011, which showed fluctuations in the income Claimant received as a CDC provider. While the Department is required to use income from the past thirty days in prospecting income if it appears to accurately reflect what is expected to be received in the benefit month, if the past thirty days is not a good indicator of future income and the fluctuations of income during the preceding sixty or ninety days appear to more accurately reflect the income that is expected to be received in the benefit month, then the income from the preceding sixty or ninety days should be used to prospect earned income. BEM 505. In light of the fluctuations in Claimant's income as a CDC provider, the Department did not act in accordance with Department policy when, in determining Claimant's gross monthly earned income, it failed to use her CDC income for the sixty or ninety days preceding the recalculation of her FAP budget.

At the hearing, there was also testimony regarding the Department's use of \$77.32 per month for Claimant's shelter expenses in her FAP budget. The Department credibly testified that it based its calculation of monthly shelter expenses on the documentation Claimant had provided. Claimant was advised that if she believed her monthly housing expenses, including property taxes, mortgage payments, and homeowners insurance premiums, exceeded the amount used by the Department, she should provide

documentation of those expenses in a form acceptable to the Department, which the Department could use in calculating Claimant's future FAP budgets.

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 February 1, 2012, ongoing in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits Claimant was eligible to receive but did not from February 1, 2012, ongoing; and
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: 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:
 - 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:

