

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

IN THE MATTER OF:



Reg. No.: 201230321
Issue No.: 3002
Case No.:
Hearing Date: April 11, 2012
County: Wayne (41)

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 April 11, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Manager, and , Eligibility Specialist.

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 March 1, 2012, the Department denied Claimant's application closed Claimant's case. reduced Claimant's benefits.
3. On January 25, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On February 1, 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 AACS, 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, at the hearing, the Department testified that Claimant's monthly FAP benefits had been reduced from \$72 to \$18 effective March 1, 2012, because of an increase in Claimant's gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Department produced Claimant's FAP budget for March 2012 that showed Claimant's gross monthly RSDI income of \$1129. Claimant verified that beginning March 2012 he was receiving gross monthly deposits of \$1129 in RSDI benefits. Thus, the Department properly relied on the gross monthly RSDI benefits of \$1129 as Claimant's unearned income for March 2012 ongoing. BEM 503.

From the gross income, the Department properly subtracted the \$146 standard deduction available to Claimant's FAP group size of one. RFT 255. The Department also provided Claimant with a deduction of \$78.50 for the monthly child support he paid. Because Claimant is a Senior/Disabled/Veteran (SDV) member, he is entitled to a deduction for medical expenses incurred in excess of \$35. BEM 554. Although it was unclear when the Department began paying Claimant's Part B Medicare premium, the evidence established that it paid Claimant's Part B Medicare premium for March 2012, ongoing. As such, Claimant was not entitled to a deduction in his FAP budget for any portion of that premium. Claimant also received an excess shelter deduction, which is based on his monthly housing obligations and a standard heat and utility deduction of \$553 per month available to all FAP recipients. RFT 255. While the budget on the Notice of Case Action indicates that Claimant had monthly housing expenses of \$200, the Department testified that it calculated Claimant's excess shelter deduction based on monthly housing expenses of \$300, which Claimant confirmed as his monthly housing expense. BEM 554; RFT 255. Based on the figures the Department testified it used, Claimant's monthly FAP benefits should have been greater than \$18. BEM 550; BEM 556; RFT 260. Thus, the Department did not act in accordance with Department policy when it concluded that Claimant was entitled to \$18 per month in FAP benefits.

At the hearing, Claimant testified that he had considerable medical expenses. For FAP purposes, the Department is required to estimate an SDV member's medical expenses for the benefit period. BEM 554. The expense does not have to be paid to be allowed but only the non-reimbursable portion of an expense is allowable. BEM 554. Allowable medical expenses include medical and dental care, hospitalization, prescription drugs and over-the-counter medication, **and** actual costs of transportation and lodging necessary to secure medical treatment or services. BEM 554. At the hearing, the Department testified that it had recently received medical expenses submitted by Claimant and it would process these expenses in accordance with BEM 554.

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. Recalculate Claimant's FAP benefits for March 2011 ongoing in accordance with Department policy and using \$300 for monthly shelter expenses, consistent with the Department's testimony at the hearing;
2. Issue supplements for FAP benefits Claimant was eligible to receive but did not for March 1, 2011, 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: April 18, 2012

Date Mailed: April 18, 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/hw

cc:

