

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201232100
Issue No.: 2018; 3019; 6019
Case No.: [REDACTED]
Hearing Date: March 8, 2012
County: Wayne (35)

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 Department of Human Services (Department) included [REDACTED], Family Independence Supervisor; [REDACTED], Assistance Payment Worker; and [REDACTED], Regulation Agent.

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 checked="" type="checkbox"/> Medical Assistance (MA)? | <input checked="" 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). |

- Medical Assistance (MA). Child Development and Care (CDC).
 Direct Support Services (DSS).

2. On March 1, 2012, the Department
 denied Claimant's application closed Claimant's cases
due to fraud.
3. On February 2, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On February 16, 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 AACRS, 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, based on anonymous fraud complaints the Department received concerning Claimant's employment activities, the Department referred Claimant's case to a fee agent. Based on the fee agent's fraud investigation, Claimant's FAP, MA, and CDC cases were closed effective March 1, 2012.

The Department did not provide the relevant Notice of Case Action at the hearing but testified that it based the closure of Claimant's FAP, MA, and CDC cases on a failure to provide information. However, there was no evidence at the hearing that Claimant had been requested to provide any information and failed to provide it. In fact, the Department failed to establish that Claimant had failed to report any required information.

Further, the evidence the Department presented at the hearing was not sufficient to substantiate the alleged fraud. Claimant identified her employment on her application as a self-employed hair stylist. While the Department characterized Claimant's paystubs as suspicious because there was no tax-withholding or gross year-to-date amounts on the stubs, because Claimant was not an employee, there would not be any deductions from her paychecks. The Department did not request further verifications from Claimant to establish her income. She cooperated in providing information concerning the owner of the salon where she worked, although the Department did establish difficulty in getting cooperation from the owner. However, the information the Department presented did not establish that Claimant earned more income than she reported.

Also, while the Department alleged that Claimant misused her CDC benefits, it did not establish the nature of the misuse. Although there was some testimony regarding whether Claimant's need for CDC benefits had been properly identified, Claimant did indicate on her application that she was both a full-time college student and a full-time employee. The evidence the Department presented showed that Claimant's daycare provider was a legitimate place of business and that Claimant's children were enrolled in, and using the facility. While the Department testified that Claimant's children were in daycare for more hours than Claimant was paid, Claimant credibly testified that, as a stylist, she was required to wait at her salon between appointments and was not paid for

this time. The evidence did not establish that Claimant used the daycare for periods during which she was not employed.

Under these circumstances, the Department failed to support its decision to close Claimant's FAP, MA, and CDC cases. At the hearing, the Department testified that Claimant's cases had been referred to the Office of Inspector General (OIG) and the Department's Recoupment Specialist (RS) for further fraud investigation. While these investigations, or further investigations by the Department, may substantiate the fraud allegations against Claimant, the evidence presented at the hearing did not. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FAP, CDC, and MA cases effective March 1, 2012.

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

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case 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, MA and CDC cases effective March 1, 2012;
2. Issue supplements to Claimant for FAP and MA benefits Claimant was eligible to receive but did not for March 1, 2012, ongoing; and
3. Issue supplements to Claimant's CDC provider for CDC benefits Claimant was eligible to receive but did not for March 1, 2012, ongoing.


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 13, 2012

Date Mailed: March 13, 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 to:

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

ACE/hw

cc:

