

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-35527
2012-25161 REHD/RECON
Issue No.: 3014; 3015
Case No.: [REDACTED]
Hearing Date: May 9, 2012
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

DECISION AFTER REHEARING

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, and Mich Admin Code Rule 400.919 upon an Order Granting Rehearing of a Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of a hearing conducted on February 15, 2012, and mailed on February 16, 2012, in the above-captioned matter. The date for a new hearing having been assigned and due notice having been provided, a telephone hearing was conducted from Detroit, Michigan, on May 9, 2012. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Family Independence Manager.

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 February 1, 2012, the Department denied Claimant's application closed Claimant's case due to net income exceeding the applicable limit.
3. On December 27, 2011, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure.
4. On January 4, 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, at the hearing, Claimant disputed the following: (i) the addition of [REDACTED] her landlord and friend, as a member of her FAP group and the inclusion of his income in her FAP group's income, and (ii) the Department's characterization of the \$700 monthly car payments made by [REDACTED] towards the car she owned as her unearned income.

FAP Group Composition

Persons who live together and purchase and prepare food together are members of the same FAP group. BEM 212. "Purchase and prepare food together" is meant to describe persons who customarily share food in common. BEM 212. Persons customarily share food in common if (i) they each contribute to the purchase of food, (ii) they share the preparation of food, regardless of who paid for it, or (iii) they eat from the same food supply, regardless of who paid for it. BEM 212.

In this case, Claimant conceded that she and [REDACTED] lived in the same mobile home. The Department testified that, because it was unclear from the redetermination form Claimant completed whether she and [REDACTED] purchased and prepared food together, it requested a fee referral investigation to clarify the situation. The Department testified that the investigating agent from the Office of Inspector General (OIG) went to the home Claimant and [REDACTED] shared and reported that [REDACTED] told the agent that he and Claimant purchased and prepared food together.

At the hearing, Claimant credibly testified that, while she sometimes purchased [REDACTED]'s food using his funds and often prepared his meals, she bought her own food using her funds, prepared different meals for herself, and ate at different times than [REDACTED]. Claimant also stated that [REDACTED] had Alzheimer's and may not have understood what the agent asked him when he replied that he and Claimant purchased and prepared food together. The Department was aware from a note it had received from [REDACTED] on December 19, 2011, that [REDACTED] had Alzheimer's, making his statements not entirely reliable. Under these facts, the Department failed to establish

that Claimant and [REDACTED] each contributed to the purchase of food they shared, shared in the preparation of food, or ate from the same food supply. Thus, the Department did not act in accordance with Department policy when it concluded that Claimant and [REDACTED] purchased and prepared food together and included [REDACTED] in Claimant's FAP group. Since [REDACTED] was improperly included in Claimant's FAP group, his income was also improperly included in Claimant's FAP group's income. BEM 212.

\$700 Car Payment

A donation to an individual by family or friends is the individual's unearned income. BEM 503. The Department counts the gross amount *actually* received by the recipient, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503. However, the Department excludes as income any gain or benefit in a form other than money, for example, meals, clothing, home energy, garden produce and shelter (unless provided by an employer in lieu of cash wages). BEM 500. Payment of an individual's bills by a third party directly to the supplier using the third party's money is not income to the individual unless the third party is paying the bill instead of paying money due to the individual (such as money owed for child support or owed on a loan), in which case the payment is the individual's unearned income. BEM 500.

In this case, Claimant acknowledged that she was the title holder of a Buick Enclave with \$700 monthly car payments. She credibly testified that [REDACTED] paid the monthly car payments directly to the finance company. In response to the December 16, 2011, Verification Checklist (VCL) the Department sent Claimant requesting documentation to show how she paid her expenses, the Department received a letter from [REDACTED] on December 19, 2011, in which he stated that he made all payments on the Enclave. The letter was therefore consistent with Claimant's testimony and showed that [REDACTED] paid Claimant's car payment for her. In light of the fact that the Department presented no evidence showing that funds for the car payments were actually received by Claimant, the Department did not act in accordance with Department policy when it characterized the \$700 monthly car payments as donations to Claimant and included them as unearned income in Claimant's FAP budget.

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 case as of February 1, 2012;
2. Reprocess Claimant's FAP redetermination in accordance with Department policy and consistent with this Hearing Decision to exclude [REDACTED] from Claimant's FAP group and his income from Claimant's FAP budget and to exclude the \$700 monthly car payment from Claimant's unearned income;
3. Issue supplements to Claimant for any FAP benefits Claimant was eligible to receive but did not from February 1, 2012, ongoing; and
4. 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: May 15, 2012

Date Mailed: May 15, 2012

NOTICE: The law provides that within 30 days of receipt of this decision, the claimant may appeal this decision to the circuit court for the county in which he/she lives.

ACE/cl

cc:

[REDACTED]