

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201238192
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: April 5, 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 April 5, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED] 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 due to excess income.
3. On February 22, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On February 28, 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 AAC, 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, countable income must be verified at a FAP redetermination. BEM 500. Wages, the pay an employee receives from another individual or organization, is earned income and is considered in the calculation of countable income for an individual's FAP budget. BEM 501; BEM 556. In prospecting income from wages, the Department is required to use gross income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505. However, 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 this case, Claimant testified that she had a base salary but a portion of her biweekly income was commission-based and fluctuated. The Department produced a printout of Claimant's biweekly income as reported by Claimant's employer to the Work Number. The printout showed that, consistent with Claimant's testimony, Claimant's income fluctuated. The Department testified that it had access to the Work Number information at the time it processed Claimant's redetermination but relied on the gross income from the three paystubs provided by Claimant for December 16, 2011, December 30, 2011, and January 13, 2012, in calculating Claimant's gross monthly earned income. Claimant testified that she provided paystubs requested by the Department but no one ever asked her about the basis for her income or about the fluctuations in her income. In light of the fluctuations in Claimant's biweekly income and the fact that the Department had notice of these fluctuations, the Department did not act in accordance with Department policy when it failed to consider Claimant's income for the sixty to ninety days preceding the redetermination in determining her FAP group's countable income.

Furthermore, the Department applied the incorrect gross income limit in determining Claimant's income eligibility. In a February 22, 2012, Notice of Case Action sent to Claimant, the Department notified Claimant of the closure of her FAP case, effective March 1, 2012, based on her gross income exceeding the FAP income limit of \$2008 for the household of three. BAM 200 provides that, for simplified reporting (SR) groups, which are FAP groups with earned income, the gross income limit is 130 percent of the poverty level based on the group size. For Claimant's FAP group size of three, this limit is \$2008. RFT 250. However, effective October 1, 2011, all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), which provides for FAP categorical eligibility if their gross income is at or below **200%** of the poverty level and they meet the asset test. BEM 213. For a FAP group size of three, the size of Claimant's group, the applicable gross income limit under this standard is \$3090. RFT 250. Thus, the Department did not act in accordance with

Department policy when it did not consider the gross income limit of \$3090 in determining Claimant's gross income eligibility.

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. Reinstate Claimant's FAP case as of March 1, 2012;
2. Begin reprocessing Claimant's FAP eligibility in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from March 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: April 10, 2012

Date Mailed: April 10, 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/cl

cc:

