

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

Reg. No.: 2012 44953
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: May 7, 2012
County: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 7, 2012. from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and the Claimant's Authorized Representative, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES and [REDACTED], Assistance Payments Supervisor.

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. During the hearing, the Department conceded that the Claimant was entitled to receive \$367 in FAP assistance based on the November 18, 2012 notification by Claimant that unemployment compensation benefits had ended. The Claimant received \$81 in December 2011. Claimant Exhibit 1.
3. A Hearing Decision was issued by Judge Leventer on August 1, 2011, which required the Department to resolve a discrepancy with regard to whether the Claimant continued to receive \$50 in stimulus money. The Decision reversed the Department and required the Department to reprocess the Claimant's May 1, 2011 FAP reduction. Exhibit 2.
4. The Claimant filed a hearing request dated August 8, 2011 requesting a hearing regarding the Department's failure to provide supplement. Claimant Exhibit 1.
5. The Department did provide a supplement for the months of May through July 2011.
6. The Claimant received Unemployment Compensation Benefits of \$724 biweekly for the period May 2011 through August 2011.
7. The Department calculated unearned income for the period May 2011 through August 2011 as \$1610. Exhibit 5.
8. The Department was required to seek a manual FAP supplement through Lansing, and supplemented the Claimant's FAP benefits from May 2011 through July 2011.
9. The Claimant requested several hearings on August 11, 2011, and December 20, 2012.
10. On May 1, 2011, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
due to excess income.
11. On 5/1/11 the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
12. On 8/11/11, Claimant or Claimant's AHR filed a hearing request, protesting the
 denial of the application. closure of the case. the calculation of the
FAP benefits due to unemployment benefits received and the failure to receive a FAP
supplement.

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, The Claimant seeks recalculation of a FAP supplement issued by the Department pursuant to a Hearing Decision issued by Judge Leventer on August 1, 2011, requiring the Department to reprocess a FAP reduction and resolve a discrepancy between the consolidated inquiry information and the Claimant's bank account statements. The Department and the Claimant agreed that during the period May 1, 2011 through August 2011, the Claimant received \$724 bi-weekly in Unemployment Compensation Benefits. In calculating this unearned income the Department erred and calculated the income as \$1610. The correct unearned income is \$1556. The unearned income is calculated by taking the bi-weekly amount of \$724 and multiplying it by 2.15. BEM 505 p. 6 and 7. Based on this conclusion, the Department must recalculate the FAP supplement previously issued for the months of May through August 2011 and issue further supplements to the Claimant for those months.

Additionally, the Department conceded, based on its receipt of the Claimant's notice letter dated November 18, 2011 giving the Department notice of the ending of receipt of unemployment benefits by the Claimant that it should have issued FAP benefits based on no unemployment benefits being received in December 2011. The Department agreed on the record that it should have issued benefits in the amount of \$367. Therefore, based upon this determination, the Department must supplement the Claimant for the difference between the benefits received in December 2011 of \$81 and the \$367 amount.

A final issue concerns the Claimant's assertion that he provided the Department notice of his unemployment benefits stopping by letter to the Department dated October 5, 2011. Claimant Exhibit 1. The Claimant produced, at the hearing, a copy of a letter addressed to the Department bearing an October 5, 2011 date and another document mailed on 9/29/11 to the Claimant from the Michigan Unemployment Agency to the Claimant advising when the Claimant's last week of unemployment benefits were received. Claimant Exhibit 1 and Exhibit 4. At the hearing the Department reviewed the case file and did not find any communication in the file from the Claimant for October 5, 2011 advising of the stopping of benefits.

Based upon the Claimant's submissions and the Claimant's credible testimony that he mailed the documents, and specifically his testimony recalling exactly where he deposited the letter, and the fact that the Claimant kept good records of what was sent, it is determined that the letter was sent to the correct address and was mailed and therefore is presumed to be received. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Thus based upon the law and the Claimant's credible testimony the Department is presumed to have received the Claimant's letter to them and thus Claimant gave the Department notice of the change in October 2011. Assuming a 7 day turn around from the time of mailing of the notice to the Department to the time of receipt, the Department would have received the letter on or about October 12, 2011 and thus should have processed the change for November 2011 FAP benefits. Accordingly, the Department is required to recalculate the Claimant's November 2011 FAP benefits on the basis of no unemployment benefits being received and issue a supplement to the Claimant for FAP benefits he was otherwise entitled to receive in accordance with Department policy. BAM 220 p. 5 and 6.

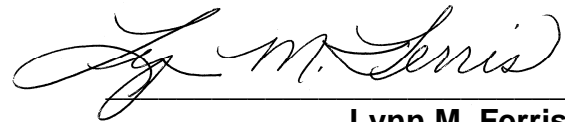
DECISION AND ORDER

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 when calculating FAP benefits for the period May through August 2011 and November 2011 and December 2011.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decisions as outline above are AFFIRMED REVERSED for the reasons stated on the record and as setforth in this Hearing Decision.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recalculation of the FAP supplements issued to the Claimant for the months of May, June, July and August, 2011 to include unearned income of \$1556 and issue a supplement to the Claimant for the difference in FAP benefits received and the FAP benefits the Claimant was entitled to receive for the period.
2. The Department shall initiate issuance of a FAP supplement to the Claimant for the month of December 2011 based upon receipt of no unemployment compensation unearned income being received by the Claimant during the month of December 2011. The Department shall issue a supplement to the Claimant for the difference in FAP benefits received for December 2011 and the recalculated FAP benefits for December 2011.
3. The Department shall initiate recalculation of the Claimant's FAP benefits for the month of November 2011 based upon receipt of no unemployment compensation unearned income being received by the Claimant during the month of November and shall issue a supplement to the Claimant for the difference in FAP benefits received for November 2011 and the recalculated FAP benefits for November 2011.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 11, 2012

Date Mailed: May 11, 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

LMF/hw

cc:

