

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

IN THE MATTER OF:



Reg. No.: 201245375
Issue No.: 3016
Case No.:
Hearing Date: May 10, 2012
County: Oakland (02)

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 May 10, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Assistance Payment Supervisor.

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 ineligible student status.
3. On January 18, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 5, 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 AAC, 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, the Department testified that Claimant's FAP case was closed effective February 1, 2012, because she was a student and did not fit any of the criteria for student eligibility under BEM 245.

Although Claimant testified at the hearing that she was no longer a student following her completion of the fall semester in December 2011, the Department credibly testified that she indicated in the FAP redetermination form she submitted on January 4, 2012, that she was a full-time student at [REDACTED]. Thus, the Department properly relied on Claimant's redetermination in finding that she was a student. BEM 245.

Students are eligible for FAP benefits only if one of the conditions in BEM 245 applies. At issue in this case was whether Claimant qualified under the exemption for students "employed for at least 20 hours per week and paid for such employment." BEM 245. Claimant provided services to her mother as a home health care aide and was paid by the State of Michigan for those services. The Department contended that Claimant had indicated in her redetermination that she worked 20 hours per pay period, and, because she was paid monthly, she worked 20 hours per month. Claimant explained that she was paid monthly but worked at least 20 hours per week caring for her mother who had multiple health issues. In this case, it is not clear that Claimant acknowledged in her redetermination that she only worked 20 hours per month. The Department did not provide a copy of the redetermination completed by Claimant into evidence for review. Likewise, it was not clear from the evidence presented that Claimant was paid for at least 20 hours per week, as required under BEM 245. Under the circumstances in this case, the hours of employment could best be verified with a written, signed statement from the employer. BEM 245. Absent such verification, the Department did not act in accordance with Department policy when it closed Claimant's case effective February 1, 2012, based on its conclusion that Claimant did not meet any of the conditions in BEM 245 and was therefore an ineligible student.

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

- | | |
|---|---|
| <input type="checkbox"/> properly denied Claimant's application | <input type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input checked="" type="checkbox"/> 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 effective February 1, 2012;
2. Begin reprocessing Claimant's FAP redetermination, submitted to the Department on January 4, 2012, 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 February 1, 2012, ongoing; and
4. Notify Claimant of its decision in writing 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: 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

Re consideration/Rehearing Request

P. O. Box 30639

Lansing, Michigan 48909-07322

ACE/cl

cc:

