

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201246654
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: May 16, 2012
County: Wayne (19)

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 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payment Supervisor, and [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 May 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On April 6, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On April 16, 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, Claimant requested a hearing to dispute the decrease in her monthly FAP benefits to \$12 effective May 1, 2012.

At the hearing, the Department explained that Claimant's FAP benefits decreased because of an increase in the amount of child support she received. The total amount of court-ordered direct support, which are child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU), is counted as unearned income and is considered in the calculation of a client's FAP budget. BEM 503; BEM 556. The calculation of monthly child support income requires use of an average of the past three months' received payments unless changes are expected. BEM 503; BEM 505.

The Department testified that, in connection with Claimant's April 2012 FAP redetermination, it ran a consolidated inquiry showing the direct child support amounts received by the Office of Child Support (OCS) on behalf of Claimant's two children, [REDACTED] for the months of January 2012, February 2012, and March 2012. The consolidated inquiry showed that child support direct payments were disbursed for each child on January 4, 2012, for \$719; on February 7, 2012, for \$719; on February 28, 2012, for \$745; and on March 30, 2012, for \$719. Based on this information, the Department considered the following amounts as Claimant's child support income: (i) \$719 per child for January 2012, (ii) \$1464 per child for February 2012, and (iii) \$719 per child for March 2012. Using these amounts, the Department calculated that Claimant received a monthly average child support payment per child of \$967.33 and used this average in calculating Claimant's unearned income for her FAP budget.

At the hearing, Claimant disputed the Department's calculation of her child support income and credibly testified that she had informed the Department of her concerns while it was processing her redetermination. Before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130.

In this case, Claimant did not deny receiving the child support payments identified on the consolidated inquiry. However, she contended that the child support payments shown on the consolidated inquiry with a payment disbursement date of February 28, 2012, were not deposited by the OCS into her account until March 1, 2012 and were intended to cover the March child support due to her and the payments with a disbursement date of March 30, 2012, were not deposited by the OCS into her account until April 3, 2012 and were intended to cover the April child support due to her. She presented bank statements to support her argument.

At the hearing, the Department contended that it was required to rely on the information in the consolidated inquiry and could not use Claimant's bank statements as a valid verification source for her child support income. BEM 503 requires that, in verifying the amount of child support a client receives, the Department rely on a consolidated inquiry, a letter from the person making payment, check stubs, data obtained from the Michigan Child Support Enforcement System (MiCSES), contact with the child support specialist, or information from the Friend of the Court (DHS-243). However, BEM 505 provides that child support payments that are unusual and not expected to continue should not be considered in the Department's calculation of the average of child support payments received in the past three calendar months. BEM 505. Therefore, while the Department properly concluded that it could not rely on Claimant's bank statements in verifying the amount of child support she received and should rely on the information on the consolidated inquiry (or in the MiCSES report presented by Claimant, which was consistent with the consolidated inquiry), the Department could consider whether a payment was unusual and not expected to continue and exclude that payment in calculating child support income.

In this case, in addition to Claimant's statement that each of the child support payments were intended to cover separate months, the consolidated inquiry showed that Claimant's ex-husband was ordered to pay \$1437 monthly for both children, which equals, when cents are rounded up, to \$719 per child. Therefore, the \$1464 per child shown on the consolidated inquiry for February, resulting in a monthly child support total of \$2928 for February, was unusually high. Claimant's bank statements as well as her ex-husband's current child support order supported Claimant's argument that the \$2928 payment actually represented two months' child support for the two children and was not reasonably expected to continue. Claimant's ex-husband's prior child support payment history, as shown on the MiCSES report, further supported Claimant's argument that her ex-husband did not pay more than the court-ordered monthly child support. Thus, the Department did not act in accordance with Department policy when it included the February 28, 2012, payment in the calculation of Claimant's child support income for the month of February 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, 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. Begin recalculating Claimant's child support income for her May 1, 2012 ongoing FAP budget, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from May 1, 2012, ongoing; and
3. 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 22, 2012

Date Mailed: May 22, 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.

2012-46654/ACE

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:

