

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012 55079
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 25, 2012
County: Wayne County DHS(43)

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 June 25, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] JET Case Manager.

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for Assistance (FAP)?

For:

- | | |
|--|---|
| <input checked="" 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 FIP: received benefits for FAP:

- | | |
|--|---|
| <input checked="" 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 6/1/12, the Department denied Claimant's application for FIP cash assistance
 closed Claimant's case reduced Claimant's benefits due to excess income.
3. On 6/1/12, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits for food assistance due to excess income.
4. On May 9, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial FIP. closure. reduction FAP.
5. On 5/21/12, 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 AACCS, 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, at the hearing the Claimant conceded that she received \$1556 in unemployment compensation, thus putting her income over the \$597 FIP payment standard, such that her application for FIP was denied due to excess income. Exhibit 1.

The Department, when it reviewed the Claimant's FIP application also reviewed the Claimant's FAP benefits and determined that due to the change in income from unemployment benefits and child support, the Department should reduce the FAP benefits. The Department correctly included \$1556 in unemployment unearned income. This amount of income was not disputed by the Claimant. As regards the child support income, the Claimant argued that the income she received in May 2012 was due to a one time receipt of child support from the father 's income tax return check and that she had not received child support since October 2011.

The Department is required to average child support and did so looking at a 60 day period. After the hearing the undersigned consulted DHS policy and determined that the Department should have looked at a 3 month period, not two month period, when averaging child support. The undersigned stated differently on the record, and those statements are corrected to be in accordance with DHS policy found in BEM 505. Additionally, it does not appear that the Department discussed with the Claimant whether the child support amount was correct as the Claimant credibly testified that she had not receive child support since October 2011 and that the only reason she received any child support is that the friend of the court seized the father's of her children's tax return check.

After a review of DHS policy consulted after the hearing, it is determined that the Department incorrectly calculated child support for the reason that it should not have included child support received due to the income tax return, which is an unusual circumstance and not likely to continue and should have used a 3 month period. The Department averaged the income received over 2 months and incorrectly determined Claimant received \$115.67 for each child for a total of \$357 which was incorrect.

Policy found in BEM 505 provides the following:

Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have

been received. Do not include amounts that are unusual and not expected to continue.

Note: The three month period used can begin up to three months before the interview date or the date the information was requested.

If payments for the past three months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these three months.

If the past three months' child support is not a good indicator of future payments, calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505 p. 3 and 4.

Based upon the above policy, it is determined that the Department incorrectly included the child support, based upon receipt of child support due to seizure of an income tax refund check and the Department is required to use a three month period. In this case because it is determined by this Decision that the income tax return check was an unusual circumstance and not expected to continue it should not have be included in any calculation of child support income. Any statements by the undersigned at the hearing, on the record, are deemed modified based upon review of policy conducted after the hearing.

Based upon the above Findings of Fact and Conclusions of Law, 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.

Based upon the above Findings of Fact and Conclusions of Law, 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.

FIP

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

FAP

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 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. The Department shall recalculate the Claimant's FAP benefits as regards the amount of child support income received, in accordance with Department policy and this Decision for the period June 1, 2012 forward.
2. The Department shall issue a supplement to the Claimant for any FAP benefits the Claimant was otherwise entitled to receive in accordance with DHS policy.



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

Date Signed: July 2, 2012

Date Mailed: July 2, 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

