

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

IN THE MATTER OF:



Reg. No.: 201273949
Issue No.: 3015
Case No.:
Hearing Date: October 3, 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 October 3, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Family Independence Specialist, and , Eligibility Specialist.

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 August 7, 2012, the Department
 denied Claimant's application closed Claimant's case
due to excess income.
3. On August 7, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On August 28, 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 Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 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, the Department sent Claimant a August 7, 2012, Notice of Case Action notifying her that her July 25, 2012, FAP application was denied because she had excess income. Although the Notice did not specify if Claimant's net or gross income exceeded the FAP income limits, because the Department presented a FAP net income budget at the hearing to establish that Claimant was not eligible for FAP benefits, it is assumed that the Department denied Claimant's application on the basis that her net income exceeded the net income limit. The net income limit for a FAP group size of four, the size of Claimant's FAP group at the time of Claimant's July 25, 2012, application, was \$1863. RFT 250 (October 1, 2011), p 1.

Calculation of Earned Income

Claimant's FAP budget showed that she had earned income of \$1675. At the hearing, the Department was unable to establish the basis of the employment information it relied on to establish the earned income amount. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's earned income and, consequently, her FAP eligibility based on income.

Calculation of Child Support Income

Claimant was also concerned about the Department's calculation of her unearned income. Claimant's FAP budget showed that she had unearned income of \$1207. The Department testified that the \$1207 was all child support Claimant received. Claimant contended that she received, with one exception, only \$100 per month for all three of her children combined. The Department presented no evidence showing the amount of child support Claimant received or its calculation of monthly child support income. Thus, the Department failed to show that it calculated Claimant's monthly child support income in accordance with Department policy.

Reliance on Unemployment Benefits

Claimant also explained that, because she had received unemployment benefits and because the unearned income presented in the FAP budget was considerably more than her child support income, she was concerned that the Department was counting both her unemployment income and earned income for the same periods of time, even though prior to her application filing date she had received one or the other depending on her employment status. In determining a group's benefits, the Department prospects

future income by making a best estimate of income expected to be received by the group during a specific month. BEM 505 (October 1, 2010), p 1. In this case, Claimant testified that she indicated in her application that she had begun new employment on July 23, 2012. Consequently, the Department would not consider Claimant's past receipt of unemployment benefits to calculate her anticipated future income. See BEM 505, p 3.

Monthly Housing Expenses

Finally, Claimant testified that her rental income was \$480, not \$466 as used by the Department in the FAP budget. The Department verified that Claimant stated on her application that her rent amount was \$480, but testified that it did not have any verification that Claimant's rental obligation was \$480. However, there was no evidence that the Department requested verification of the rental amount. See BEM 554 (January 1, 2011), p 11; BAM 130 (May 1, 2012), pp 2-3. Thus, the Department could not rely on the fact that there was no verification on file to justify its use of a lower amount, particularly for purposes of establishing Claimant's FAP 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 the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case 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. Reregister Claimant's July 25, 2012, FAP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from July 25, 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: 10/12/2012

Date Mailed: 10/12/2012

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/hw

cc:

