

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

IN THE MATTER OF:



Reg. No.: 201311330
Issue No.: 1017; 2026; 3002
Case No.: [REDACTED]
Hearing Date: January 30, 2013
County: Oakland (04)

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 January 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's Living-Together-Partner (LTP) and an adult member of Claimant's benefit groups. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits, reduce her Food Assistance Program (FAP) benefits, and provide the LTP with Medical Assistance (MA) coverage with a monthly \$314 deductible based on excess income?

Did the Department properly remove a FIP disqualification from Claimant's and the LTP's record?

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 was an ongoing FIP, FAP, and MA recipient.
2. On October 11, 2012, a hearing was held concerning Claimant's cases before Administrative Law Judge Christian Gardocki .

3. At the hearing, the Department acknowledged that it had erred in calculating Claimant's FIP and FAP benefits because it improperly concluded that the LTP had failed to comply with employment-related activities.
4. In a Settlement Order signed on October 19, 2012, Judge Gardocki ordered the Department to remove any disqualification concerning the LTP from Claimant's disqualification history; redetermine Claimant's FIP and FAP eligibility as of August 2012 to include the LTP as a qualified group member; and issue supplements for any benefits not issued as a result of the Department's improper actions.
5. In the Settlement Order, Judge Gardocki noted that the LTP's countable income had been improperly excluded from prior budgets and could affect benefits.
6. On October 24, 2012, the Department sent Claimant a Notice of Case Action informing her that effective December 1, 2012, her monthly FAP benefits would be reduced from \$712 to \$390, her FIP case would close due to excess income, and the LTP's MA case would be subject to a monthly \$314 deductible.
7. On November 1, 2012, Claimant filed a request for hearing, disputing the Department's actions.

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.

Additionally, Claimant left during the course of the hearing claiming that she was late for an appointment, but was unwilling to provide any details to permit an assessment of whether a continuance was appropriate. Although Claimant abandoned her hearing request by leaving before the hearing was complete, the LTP, an adult member of the FAP, FIP and MA cases, agreed to continue to represent the group's interests in the hearing. See BAM 600 (January 1, 2013), pp 1-2.

In her hearing request, Claimant expressed a concern about the actions taken in her cases, particularly referencing her FIP and FAP cases and indicating that there was a recoupment action and improper sanctions applied contrary to the Hearing Decision. At the hearing, the Department testified that the closure of Claimant's FIP case, reduction in FAP benefits and the conversion of the LTP's full-MA coverage to a deductible case, all effective December 1, 2012, were due to Retirement, Survivors and Disability Insurance (RSDI) income received by the LTP and two of the children in the household that had not been previously budgeted. However, the Department did not provide in the hearing file, a copy of the October 24, 2012 Notice of Case Action notifying Claimant of its action, nor any of the budgets showing the calculation of eligibility, benefits, and recoupment amounts, if any. Furthermore, Judge Gardocki ordered the Department to remove any relevant disqualifications from Claimant's record, but the Department did not present any evidence at the hearing showing that such action was taken. In the absence of such evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in this case.

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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 failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's FIP, FAP and MA cases.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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 FIP eligibility as of December 1, 2012;
2. Begin recalculating Claimant's FAP benefits for December 1, 2012, ongoing;
3. Begin recalculating the LTP's MA coverage and deductible amount, if any, from December 1, 2012, ongoing;
4. Issue supplements to Claimant for any FIP and/or FAP benefits she was eligible to receive but did not from December 1, 2012, ongoing;
5. Provide the LTP with MA coverage he was eligible to receive but did not from December 1, 2012, ongoing;
6. Remove any relevant disqualification from Claimant's and the LTP's disqualification history imposed on or about July or August 2012; and
7. 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: February 5, 2013

Date Mailed: February 5, 2013

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:

