

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313164
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: January 9, 2013
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 January 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payment Worker, and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
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| <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 November 13, 2012, the Department
 denied Claimant's application closed Claimant's case
due to excess income.
3. On November 13, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 26, 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, at the hearing, the Department produced a FAP budget showing the calculation of Claimant's net income. Several issues arose from a review of the budget: (1) the calculation of Claimant's monthly unearned income, (2) Claimant's medical deduction, (3) the rent used to calculate Claimant's excess shelter deduction, and (4) Claimant's FAP group size.

Claimant's Unearned Income

At the hearing, the Department testified that Claimant's gross monthly income totaled \$2448 and consisted of \$1533 in Retirement, Survivors and Disability Insurance (RSDI) benefits received by Claimant and \$415 in RSDI benefits received by each of Claimant's two children. However, the sum of these figures is \$85 less than \$2448. Claimant testified that his \$1533 in RSDI benefits was his *net* income from that source after his Part B premiums were removed, but neither the Department nor Claimant was able to verify Claimant's *gross* RSDI benefits. The Department must use gross RSDI income in calculating a client's FAP budget. BEM 503 (November 1, 2012), p 21. Because the Department was unable to verify the amount of gross RSDI benefits Claimant received, it failed to satisfy its burden of showing that it calculated Claimant's net income in accordance with Department policy.

Medical Deduction

The Department acknowledged at the hearing that Claimant was a Senior/Disabled/Veteran (SDV) member of his FAP group. SDV members are eligible for a medical deduction in their FAP budget for verified medical expenses exceeding \$35. BEM 554 (October 1, 2012), p 1. While the Department testified that Claimant did not provide any verification of medical expenses, it should have been aware from running the Single On-Line Query (SOLQ) report in connection with processing Claimant's FAP application that Claimant had Medicare Part B premiums deducted from his RSDI benefits. Such premiums are medical expenses and Claimant was eligible for a medical deduction for premiums in excess of \$35. BEM 554, p 9. The Department did not act in accordance with Department policy when it failed to consider this expense.

Excess Shelter Deduction

Claimant also expressed concerns that the Department failed to consider his \$850 monthly rent expense in calculating his net income. The Department testified that, because Claimant did not verify his shelter expenses, it used \$0 for his rent amount in

the FAP budget. However, a review of the Department's calculation of Claimant's excess shelter deduction of \$275 shows that, contrary to the Department's testimony, the Department did in fact consider Claimant's shelter expenses of \$850 in preparing the FAP budget. Because the Department considered Claimant's shelter expenses when it calculated his net income, the Department acted in accordance with Department policy and verification was not required in the absence of a finding of eligibility. BAM 130 (May 1, 2012), p 1.

FAP Group Size

At the hearing, Claimant confirmed that he did not list his stepson as a member of his FAP group in his FAP application. Claimant explained that the Department informed him that his stepson was eligible to be in his own FAP group and Claimant elected to exclude him from his application in order to increase his chance to be approved for FAP benefits. Claimant's stepson, who is an adult, is eligible to apply for FAP benefits on his own even though he lives with Claimant if he purchases and prepares food separately from Claimant. BEM 212 (November 1, 2012), p 5. Therefore, the Department's statement to Claimant was not misleading. Although Claimant misinterpreted this information, and consequently did not include his stepson in his FAP application, the Department acted in accordance with Department policy when it relied on Claimant's application listing Claimant and his two minor children as the parties seeking FAP and excluding Claimant's stepson from his FAP group.

Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's gross RSDI income and failed to consider Claimant's Medicare Part B premiums in calculating his medical deduction. The Department did act in accordance with Department policy when it considered Claimant's \$850 unverified shelter expenses for purposes of determining his eligibility and excluded Claimant's stepson, who was not listed on his FAP application, from his FAP group.

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

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|---|--|
| <input type="checkbox"/> properly denied Claimant's application | <input checked="" type="checkbox"/> improperly denied Claimant's application |
| <input type="checkbox"/> properly closed Claimant's case | <input type="checkbox"/> improperly closed Claimant's case |

for: AMP FIP FAP MA SDA CDC DSS.

DECISION AND ORDER

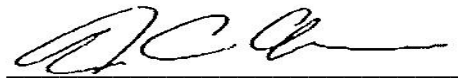
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- 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 above and 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 November 8, 2012 FAP application;
2. Begin reprocessing Claimant's FAP application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from November 8, 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: January 14, 2013

Date Mailed: January 14, 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/cl

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