

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

IN THE MATTER OF:

[REDACTED]
DETROIT, MI 48227

Reg. No.: 20135173
Issue No.: 3016
Case No.: [REDACTED]
Hearing Date: January 14, 2013
County: Wayne (31)

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 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 14, 2012, Claimant applied for FAP benefits.
2. On November 14, 2012, the Department denied Claimant's application.
3. On November 29, 2012, Claimant filed a request for hearing disputing the Department's action.

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, the Department testified that it denied Claimant's FAP application on November 14, 2012, because Claimant was an ineligible student for FAP benefit purposes. In the application Claimant submitted to the Department on August 24, 2012, she indicated that she was 20 years old and a community college student. Clients age

18 through 49 are not eligible for FAP benefits if they are enrolled half-time or more in (i) a vocational, trade, business or technical school that normally requires a high school diploma or an equivalency certificate or (ii) a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. BEM 245 (October 1, 2012), pp 2-3. Students are eligible for FAP benefits only if one of the conditions in BEM 245, pp 3-4 applies, which includes being employed for at least 20 hours per week and paid for such employment. Although the Department originally testified that Claimant was not employed, it subsequently testified that Claimant's application indicated that she was employed as a sales associates, and while she had not indicated her weekly hours, she had submitted paystubs with her application. Claimant credibly testified that she worked between 20 and 32 hours weekly, and the Department did not dispute that testimony. This evidence established that Claimant fit the employment criteria for student FAP eligibility under BEM 245. Thus, the Department did not act in accordance with Department policy when it denied Claimant's FAP application on the basis that Claimant was an ineligible student.

The Department also testified that Claimant's application was denied because she had not provided thirty-days' worth of pay. To use past income to prospect future income, the Department must use income from the past 30 day period beginning the 30 days before the interview date or the date the information was requested. BEM 505 (October 1, 2010), p 4. In this case, the Department acknowledged that Claimant submitted paystubs dated July 27, 2012 and August 10, 2012, with her August 14, 2012 application, but it could not establish when any additional request for verification of pay had been sent to Claimant. Because the paystubs submitted with the application covered the 30 days of income Claimant received prior to her August 14, 2012, application date and the Department could not establish that it requested additional paystubs, the Department failed to satisfy its burden of showing it acted in accordance with Department policy when it denied Claimant's FAP application.

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

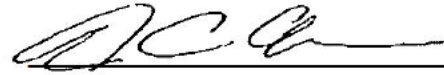
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 did not act properly when it denied Claimant's FAP application.

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. Reregister Claimant's August 14, 2012 FAP application;
2. Begin reprocessing the application in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 14, 2012, ongoing;

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 18, 2013

Date Mailed: January 18, 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:

