

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201321547  
Issue No.: 3015  
Case No.: [REDACTED]  
Hearing Date: February 13, 2013  
County: Wayne (17)

**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 February 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband and Authorized Hearing Representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist; [REDACTED], Eligibility Specialist; and [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on excess income?

**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:  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).  |

2. In connection with Claimant's husband's new employment, the Department recalculated Claimant's FAP budget.
3. On December 20, 2012, the Department notified Claimant that her FAP case would close effective February 1, 2012, because her income exceeded the applicable FAP income limits.
4. On December 26, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the Department's action.

### **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 AACS, 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, the Department testified that Claimant's husband's employment income resulted in the household exceeding the FAP income limits. Two issues were presented in the hearing: (i) whether the Department considered the correct FAP group size and (ii) whether the Department properly calculated Claimant's husband's employment income.

#### Group Size

The Department testified that, at the time it sent out the December 20, 2012 Notice of Case Action, Claimant's FAP group consisted of three individuals: Claimant's husband and their two children. The Department testified that Claimant was excluded from the FAP group because she was not a US citizen or a qualified alien. See BEM 225 (January 1, 2012), p 3. The Department acknowledged that, on December 23, 2012, Claimant presented documentation that she had become a US citizen. Because Claimant's case was still open at the time she provided this documentation and this change would result in an increased FAP group size and the application of a different FAP income limit in the determination of Claimant's FAP income eligibility, the Department did not act in accordance with Department policy when it failed to consider the citizenship documentation submitted prior to the closure of Claimant's FAP case. See BAM 220 (November 1, 2012), p 10. Furthermore, a member add that increases benefits is effective the month after it is reported. BEM 212 (November 1, 2012), p 7. Therefore, Claimant should have been included in the Department's calculation of Claimant's FAP benefits for January 2012.

#### Employment Income Calculation

In determining a group's FAP benefits, the Department must determine a best estimate of income expected to be received by the group during a specific month. BEM 505 (October 1, 2010), p 2. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p 4. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p 2.

In this case, Claimant's husband established that he had started new employment on October 22, 2012. The Department testified that in calculating Claimant's husband's prospective income it relied on a Verification of Employment (VOE) completed by the employer. The VOE showed that Claimant was paid weekly at a rate of \$20 per hour and 40 hours per week. The VOE also listed the paychecks the husband had received to date: (i) \$800 paid on November 2, 2012, (ii) \$800 paid on November 9, 2012, (iii) \$800 paid on November 16, 2012, and (iv) \$920 paid on November 23, 2012. The Department testified that it used the amounts the husband actually received in calculating his gross monthly employment income. At the hearing, the husband testified that the \$920 paycheck included overtime he did not regularly receive. However, there

was no evidence that the Department sought any input from his regarding his anticipated overtime before relying on the paycheck amounts to calculate his gross monthly income. Since the VOE listed four paychecks and three were consistent with the employer's indicated rate and hours, the \$920 paycheck is unusual and did not reflect the normal, expected amount and should have been discarded. Thus, the Department did not act in accordance with Department policy when it calculated Claimant's gross monthly earned income.

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 improperly calculated Claimant's gross monthly income for purposes of determining his FAP income eligibility.

**DECISION AND ORDER**

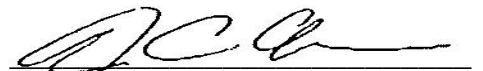
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly       did not act properly.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case as of February 1, 2013;
2. Begin recalculating Claimant's FAP budget for January 2012, in accordance with Department policy to include Claimant as an eligible FAP group member;
3. Begin recalculating Claimant's FAP income eligibility for February 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2013, ongoing; and
5. 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: 2/14/13

Date Mailed: 2/14/13

**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:

