

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

IN THE MATTER OF:



Reg. No.: 201322898
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Wayne (15)

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 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

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's 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)? |

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. On January 1, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On an unverified date, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On January 10, 2013, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the Department of Human Services 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 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 (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 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 requested a hearing to dispute the reduction of her monthly FAP benefits to \$89 effective January 1, 2013. The January 2013 FAP budget used to calculate Claimant's benefits was reviewed at the hearing. The only issue presented at the hearing was the calculation of Claimant's earned income of \$1555. The Department testified that four sources of employment income were considered in calculating Claimant's gross monthly earned income: (1) adult home helper provider income, (2) FMS, (3) Entech and (4) Portamedic.

Adult Home Helper Provider Income

The Department testified that it based Claimant's gross monthly adult home helper provider income of \$504.12 on the results of a consolidated inquiry showing this payment to Claimant on October 18, 2012. However, Claimant was able to establish at the hearing that she had just begun the adult home help provider employment in August 2012 and that the \$504.12 she was paid on October 18, 2012, consisted of her pay for part of August 2012 and the full month of September 2012. She further established that her gross monthly adult home helper provider income was \$372.09. Thus, the Department used the incorrect amount of adult home helper provider income in calculating Claimant's gross monthly earned income.

[REDACTED] Income

At the hearing, Claimant was able to establish that FMS was not an employer. Rather, it was an acronym for her title (field medical staff) at [REDACTED]. Thus, the Department improperly considered income from both FMS and [REDACTED]. Furthermore, a review of the November 8, 2012, Verification of Employment from [REDACTED] shows that Claimant's employment ended on October 22, 2012, with the last paycheck to Claimant on November 1, 2012. The Department acknowledged at the hearing that income from [REDACTED] should not have been considered in the calculation of Claimant's prospective income.

[REDACTED] Income

The Department testified that it relied on employment paystubs in calculating Claimant's income from Entech because the Verification of Employment from [REDACTED] was due on November 8, 2012 and had not been received at the time the FAP budget was calculated. However, the Department confirmed that the Verification of Employment (VOE) was received from [REDACTED] on November 19, 2012. The VOE showed that Claimant's employment ended on October 24, 2012, with the last paycheck to be issued on November 2, 2012. Claimant credibly testified that she worked for [REDACTED] on an assignment basis and that, since October 24, 2012, she had worked on assignments for [REDACTED] for a single day on November 30, 2012, and for a short period of time in mid-

January 2012. The Department agreed that Claimant's income from [REDACTED] should have been treated as irregular income. See BEM 505 (October 1, 2010), p 5 (requiring consideration of the last 60 to 90 days income in calculating prospective irregular income).

Thus, the Department improperly calculated Claimant's gross earned income and, consequently, her FAP allotment for January 1, 2013, ongoing.

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, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.


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. Begin recalculating Claimant's FAP budget for January 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2013, ongoing; and
3. 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: 2/15/13

Date Mailed: 2/15/13

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:

