

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201324825  
Issue No.: 3003  
Case No.: [REDACTED]  
Hearing Date: February 28, 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 February 28, 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.

**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 and February 1, 2013, the Department  denied Claimant's application  closed Claimant's case  reduced Claimant's benefits due to excess income.
3. On December 11, 2013, and December 19, 2012, the Department sent  Claimant  Claimant's Authorized Representative (AR) notice of the  denial.  closure.  reduction.
4. On December 16, 2013, Claimant 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 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 established that, after discovering that Claimant's unearned income from Retirement, Survivors and Disability Insurance (RSDI) benefits had not been included in the calculation of her FAP budget, it recalculated the budget and ultimately determined that Claimant was eligible for \$44 in monthly FAP benefits for January 2013 and \$40 in monthly FAP benefits for February 2013 ongoing.

At the hearing, Claimant verified that she was the only member of her FAP group. The December 11, 2012 and December 19, 2012 Notices of Case Action show that the Department complied with Department policy when it applied the \$148 standard deduction available to a FAP group size of one and the \$575 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 1, 2012), p 1; BEM 554 (December 1, 2012), pp 11-17. Claimant also verified that she paid monthly shelter expenses of \$595, consistent with the amount the Department used as indicated in the Notices.

A review of the evidence showed that the Department considered Claimant's gross monthly RSDI income of \$1347 in calculating Claimant's FAP benefits. However, Claimant's gross RSDI income increased to \$1369, effective January 1, 2013. At the hearing, Claimant presented a letter dated February 22, 2013, from the Social Security Administration (SSA) showing that Claimant received monthly RSDI income of \$1215 after deductions of (i) \$104.90 for her Part B Medicare premium and (ii) \$50 repayment of a previous overpayment, the balance of which was \$706 as of the date of the letter. The sum of the net income plus the two deductions totals \$1369. However, for purposes of calculating a client's gross unearned income, the Department must exclude amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment. BEM 500 (January 1, 2013), p 4. The Department's evidence showed that it was aware from a conversation with an SSA representative in December 2012 that an overpayment would be deducted by the SSA from Claimant's monthly RSDI income beginning on January 1, 2013. Therefore, the Department did not act in accordance with Department policy when it included the \$50 overpayment deduction made by the SSA from Claimant's RSDI income in calculating Claimant's gross RSDI income.

Because Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a medical expense deduction for verified medical expenses in excess \$35. BEM 554 (December 1, 2012), p 1. The evidence established that beginning January 1, 2013, SSA was deducting \$104.90 from Claimant's RSDI payments for Part B Medicare premiums. Thus, Claimant was eligible for a \$70 medical expense deduction based on the Part B premiums. It also appears from the December 11, 2012 Notice of Case Action that the Department included an additional \$9 medical expense in the medical deduction for January 2013.

Although Claimant alleged that she had ongoing monthly prescription expenses of \$8.80 and doctor visit copay expenses of \$32.88, the documentation she submitted to the Department in December 2012 did not establish that these expenses were ongoing. Thus, the Department acted in accordance with Department policy when it did not include these expenses as ongoing monthly medical expenses. See BEM 554, pp 6-9.

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.

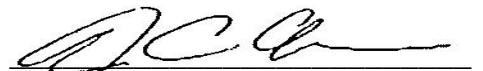
**DECISION AND ORDER**

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, the Department's  AMP  FIP  FAP  MA  SDA  CDC 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. 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 Claimant was eligible to receive but did not for January 1, 2013, ongoing;
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: 3/8/2013

Date Mailed: 3/8/2013

**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:

