

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

IN THE MATTER OF:



Reg. No.: 201335317
Issue No.: 3015
Case No.:
Hearing Date: April 15, 2013
County: Wayne (18)

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 April 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Eligibility Specialist, and , 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
3. closed Claimant's case reduced Claimant's benefits due to excess income.
4. On December 19, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
5. On March 12, 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 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 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.

Additionally, the Department established that, after discovering that it had not included the Retirement, Survivors and Disability Insurance (RSDI) benefits received by one of Claimant's son's in the calculation of Claimant's FAP budget, it recalculated the budget and determined that Claimant was not eligible for FAP benefits because her net income exceeded the net income limit applicable to her FAP group.

Because Claimant is a Senior/Disable/Veteran (SDV) member of her FAP group, her FAP group is eligible for FAP benefits only if the group's net income is below the net income limit. BEM 550 (February 1, 2012), p 1. The FAP net income limit for a group size of three, the size of Claimant's FAP group (which was composed of Claimant and her two sons), is \$1591. RFT 250 (October 1, 2012), p 1. In this case, the Department concluded that Claimant's net income was \$2391.

At the hearing, the Department provided a net income budget showing the calculation of Claimant's FAP group's net income. Claimant verified that her FAP group consisted of three members: herself and her two children. The budget shows that the Department complied with Department policy when it applied the \$148 standard deduction available to a FAP group size of three 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 \$700,

consistent with the amount the Department used in calculating the excess shelter deduction.

The budget was based on unearned income of \$2592, which the Department testified consisted of the following: Claimant's monthly \$710 Supplement Security Income (SSI) benefits; (ii) Claimant's monthly State SSI Payment (SSP) benefit of \$14 (based on a \$42 quarterly payment); (iii) Claimant's son Marshall's monthly RSDI income of \$934; and (iv) Claimant's son Jeremiah's monthly RSDI income of \$934. However, Claimant contended that she received only \$639 in monthly SSI benefits, with the Social Security Administration withholding \$71 from her monthly benefits to offset a prior overpayment to her. A review of Claimant's SOLQ is consistent with Claimant's testimony, showing that Claimant's recurring monthly SSI payment was \$639 and that \$71 was a recovered overpayment. For the purpose of calculating gross income, amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are excluded from the calculation of gross income. BEM 500 (January 1, 2013), p 4. Because SSA withheld \$71 from Claimant's SSI benefits, the Department did not act in accordance with Department policy when it used \$710 rather than \$639 for Claimant's unearned SSI income. Consequently, the Department not act in accordance with Department policy when it calculated Claimant's net income and closed Claimant's FAP case based on this improperly calculated net 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, 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

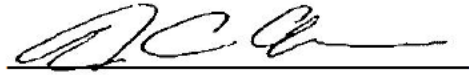
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

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. Reinstate Claimant's FAP case as of January 1, 2013;
2. Begin recalculating Claimant's FAP budget for January 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;

3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not for January 1, 2013, 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: 4/19/2013

Date Mailed: 4/19/2013

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:

