

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-3673
Issue No.: 1017; 2013; 3015
Case No.: [REDACTED]
Hearing Date: December 19, 2012
County: Wayne (43)

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 December 19, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], JET Case Manager, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) cases 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 was an ongoing recipient of FAP, FIP and MA.
2. Effective October 1, 2012, the Department closed Claimant's FAP and FIP cases for excess income.
3. Effective November 1, 2012, the Department closed Claimant's MA case for excess income.

4. On October 3, 2012, Claimant filed a request for hearing, disputing the Department's actions.

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, Claimant's FIP, FAP and MA cases were closed for excess income.

Closure of Claimant's FIP Case

The Department testified that it closed Claimant's FIP case effective October 1, 2012, due to excess income. To determine whether a client is eligible for FIP assistance, the client's income, less any child support paid out, is subtracted from the payment standard for the client's FIP group size, which for a FIP group size of two (Claimant and his minor son) is \$403. BEM 515 (December 1, 2011), p 1; BEM 518 (October 1, 2012), pp 1, 4; RFT 210 (January 1, 2009), p 1.

In this case, the Department presented a FIP budget and explained that Claimant's income consisted of his unemployment benefits (UB) payments. The gross amount of a client's UB payments is countable unearned income. BEM 503 (July 1, 2012), pp 25-26.

In this case, the Department testified that it considered the following UB payments made to Claimant: (i) \$435 on August 30, 2012; (ii) \$290 on September 18, 2012; and (iii) \$290 on September 24, 2012. In determining a client's FIP eligibility, the Department must convert income to a standard monthly amount. BEM 505 (October 1, 2010), p 1. The Department must consider income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p 4. The Department averaged these three payments and multiplied the average by the 2.15 multiplier applicable to biweekly payments to conclude that Claimant's gross monthly UB income was \$727.42. See BEM 505, p 6. However, at the hearing, the Department explained that the August 30, 2012, UB payment included *three* weeks of UB payments and was consequently larger than Claimant's other two payments. The Department explained that Claimant's weekly UB payments were \$145. The Department is required to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p 4. Because the \$435 UB payment covered three weeks of benefits and was out of the ordinary, it should not have been included in the calculation of gross monthly UB income. Thus, the \$727.42 gross monthly unearned figure was not calculated in accordance with Department policy.

Claimant was also concerned about the Department's calculation of the child support payments he made. In determining a client's FIP eligibility, the client is eligible for a deduction from the group's total countable income in the amount of court-ordered support payments, including arrearages, expected to be paid by the program group for children not in the home. BEM 518, p 4. These payments are to be converted to a monthly amount based on payments made in the preceding three months. BEM 505, p 3; BEM 518, p 4. Although the Department testified that its calculation of Claimant's child support deduction was based on the monthly average he had paid in June, July and August 2012, Claimant contended that there were deductions in his biweekly UB payments of \$49.50 for child support. Because the Department did not produce the consolidated inquiry showing Claimant's child support payments or his UB payments, the Department has failed to satisfy its burden of showing that it calculated Claimant's child support deduction in accordance with Department policy.

Closure of Claimant's FAP Case

The Department testified that Claimant's FAP case closed effective October 1, 2012, because his group's income exceeded the FAP gross income limit applicable to his FAP group size. Claimant disputed the Department's actions cont ending that (1) his fiancée was not a member of his FAP group and her income should not have been included in the calculation of the group's FAP benefits and (2) his income was incorrectly calculated.

The Department testified that it included Claimant's fiancée in his FAP group because, in connection with an interview conducted at the time of Claimant's FAP redetermination, Claimant informed the Department that his fiancée was living in his home. While persons who are legally married and living together are mandatory FAP group members, Claimant and his fiancée were not legally married at the time of the redetermination and, consequently, they were not mandatory FAP group members. BEM 212 (April 1, 2012), p 1. Persons who live together and purchase and prepare food together are members of the same FAP group. BEM 212, p 5. However, the Department did not establish that Claimant and his fiancée purchased and prepared food together. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in finding that Claimant's fiancée was a member of his FAP group.

Furthermore, as discussed above, the Department's calculation of Claimant's unearned income was not in accordance with Department policy.

Closure of Claimant's MA Case

The Department testified that Claimant's MA coverage under the Low-Income Family (LIF) program was closed effective November 1, 2012, because Claimant's income exceeded the income limit for the program. However, the Department did not provide an MA budget showing the LIF income limit or the income it used to conclude that Claimant had excess income for the LIF program. Furthermore, before closing a client's MA case, the Department must determine whether the client is eligible for MA under any other MA program. BAM 220 (October 1, 2012), p 14. There was no evidence that the Department considered the availability of other MA coverage for Claimant before closing his MA case. Therefore, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy in closing Claimant's MA case.

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 when .
- did not act properly when it closed Claimant's FIP, FAP and MA cases.

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. Reinstate Claimant's MA case as of November 1, 2012;
2. Provide M A coverage Claimant is eligib le to receive from November 1, 2012, ongoing;
3. Reinstate Claimant's FIP and FAP cases as of October 1, 2012;
4. Begin recalculating Claimant's FIP and FAP budgets in accordance with Department policy and consistent with this Hearing Decision;
5. Issue supplements to Claimant for any FIP and/or FAP benefits he was eligible to receive but did not from October 1, 2012, ongoing; and
6. 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: December 21, 2012

Date Mailed: December 21, 2012

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/cl

cc:

