

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

IN THE MATTER OF:



Reg. No.: 2013*-39455
Issue No.: 3015
Case No.:
Hearing Date: May 2, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on May 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included .

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 March 15, 2013, the Department sent a Notice of Case Action notifying Claimant that his FAP application dated March 12, 2013, was denied due to excess income. Exhibit 2.
3. On March 27, 2013, Claimant requested a hearing protesting the denial of the application. Exhibit 4.

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.

The purpose of the interview is to explain program requirements to the applicant and to gather information for determining the group's eligibility. BAM 115 (January 2013), p. 13. For FAP cases, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115, p. 14. The Department must not deny the application if the client has not participated in the initial interview until the 30th day after the application date even if they have returned all verifications. BAM 115, p. 14.

Claimant applied for FAP benefits on March 12, 2013. The Department testified that it calculated Claimant's excess income based on Claimant's two different employers. The Department testified that it attempted to contact Claimant numerous times to schedule an in-person interview to clarify Claimant's multiple employers. However, Claimant testified that he never received any of the Department's phone calls. Nevertheless, the Department was unable to reach Claimant to clarify his work history; thus, it processed the application with both incomes Claimant received from the two employers which resulted in the denial of his FAP application due to excess income. Exhibit 2.

Claimant testified that he is currently laid off as of March 7, 2013, and never had two jobs. Claimant testified that he worked with a temp agency where he was placed on an assignment with the [REDACTED] from February 2012 through October 2012. Claimant testified that once he finished his temp position, this resulted in him becoming a permanent employee with the [REDACTED] from October 2012 through March 7, 2013. Claimant testified there were never two employers. Claimant testified that before he could obtain a permanent job for the [REDACTED], he first had to work as a temp employee.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (May 2012), p. 1. The Department verifies income that stopped within the 30 days prior to the application date or while the application is pending before certifying the eligibility determination group (EDG). If eligibility fails due to lack of verification of stopped income, a client who reapplies does not need to verify stopped income if it has been over 30 days. BEM 505 (October 2010), p. 11. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3.

In this case, Claimant appropriately notated on his application that his employment at the [REDACTED] had ended on March 7, 2013. Exhibit 1. There were never two employers. Based on the foregoing information, the Department improperly denied Claimant's FAP application. The application was denied even though the client had not participated in the initial interview and the 30-day time period provided in BAM 115 had not lapsed. BAM 115, p. 14. Claimant applied on March 12, 2013, and the Department denied Claimant on March 15, 2013. The Department did not act in accordance with Department policy when it denied the application three days after it was received and prior to verifying Claimant's income. BAM 115, p. 14.

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.

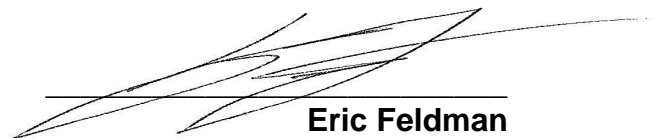
DECISION AND ORDER

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. Reregister the March 12, 2013, FAP application;
2. Begin reprocessing the application/recalculating the FAP budget based on the March 12, 2013, application in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 12, 2013, ongoing; and
4. Notify Claimant of its decision in writing in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 9, 2013

Date Mailed: May 9, 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 affect the substantial rights of the claimant:
 - 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

EJF/pf

cc:

