

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-48165
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: June 17, 2013
County: Wayne (82-19)

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 June 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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 May 1, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On May 10, 2013, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On May 16, 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 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, although the Department did not provide a copy of the May 10, 2013, Notice of Case Action applicable in the instant case, at the hearing, the Department testified that, in connection with a FAP redetermination, Claimant's monthly FAP benefits had been reduced to \$201 effective May 1, 2013, because of an increase in Claimant's group's gross monthly income. Although the increase in the group's income, as shown on the budgets provided, was small compared to the drop in monthly FAP benefits from \$358 to \$201, the Department explained that the Department had erred when it issued \$358 in monthly FAP benefits to Claimant and that when Claimant's FAP budget was recalculated in connection with the redetermination, the amount of monthly FAP benefits was properly decreased to \$201.

The Department provided a copy of the May 2013 FAP net income budget used to calculate Claimant's monthly FAP benefits, which was reviewed at the hearing. The budget showed monthly gross unearned income of \$1,107, which the Department testified consisted of the following: (i) Claimant's gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$702; (ii) Claimant's gross monthly Supplemental Security Income (SSI) of \$33.50; (iii) Claimant's wife's gross monthly RSDI benefits of \$317; and (iv) Claimant's wife's gross monthly SSI income of \$33.50. The sum of these income sources is \$1,086, less than the \$1,107 indicated as Claimant's group's gross monthly unearned income. Although Claimant's wife verified that the household received a monthly State SSI Payment (SSP), which would be included in the unearned income calculation, neither Claimant nor the Department could

verify the amount of SSP income received by the household. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating the group's unearned income.

There was also a dispute concerning the monthly shelter amount used by the Department in calculating Claimant's excess shelter deduction. The Department testified that it used \$310 for monthly rent but could not verify the source of that figure. Claimant's wife claimed that she identified her monthly rent as \$329 in the redetermination and had not been asked to provide any verification of rent. In light of this dispute concerning the monthly shelter expenses, the Department did not satisfy its burden of showing that it calculated Claimant's excess shelter deduction in accordance with Department policy.

Furthermore, because Claimant is a Senior/Disabled/Veteran (SDV) member of his FAP group, the Department must deduct verified medical expenses Claimant incurred in excess of \$35, including any Part B Medicare expenses Claimant was responsible to pay. BEM 554 (October 1, 2012), pp. 1, 6-9. The Department testified that no verified medical expenses had been submitted prior to the hearing, but, in recalculating Claimant's FAP budget, it should consider any Part B Medicare premiums Claimant was responsible to pay, as reflected in an SOLQ, in determining his eligibility for a medical expense deduction.

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 not satisfy its burden of showing that it calculated Claimant's FAP budget in accordance with Department policy.

Accordingly, the Department's FAP decision is 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 May 1, 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
2. Issue supplements to Claimant for any FAP benefit he was eligible to receive but did not from May 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: June 18, 2013

Date Mailed: June 18, 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/pf

cc:

