

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201348428
Issue No.: 1005, 2006, 3015
Case No.: [REDACTED]
Hearing Date: June 20, 2013
County: Wayne DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 20, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) benefit eligibility by factoring reportedly stopped employment 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. On 5/9/13, Claimant applied for FAP, FIP and MA benefits.
2. Claimant's application listed that Claimant had no ongoing employment income.
3. DHS verified that Claimant received employment income from the months of 1/2013-3/2013 totaling \$3465 for one job and \$7554.72 for a second job.
4. On 5/9/13, DHS determined that Claimant was ineligible for FAP, FIP and MA benefits, in part, due to counting Claimant's employment income from 1/2013-3/2013.
5. On 5/20/13, Claimant requested a hearing disputing the FAP, FIP and MA denials.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute denials of FAP, FIP and MA benefits. DHS alleged that the denials occurred, in part, due to a failure by Claimant to verify stopped employment income.

For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2.

For FAP and benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it.

(*Id.*, p. 5.)

For MA benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed.

Id., p. 6.

The DHS claim that FAP, FIP and MA benefits were denied because of a Claimant failure was highly disingenuous. DHS claimed that Claimant was simultaneously denied based on excess income. If a denial occurred due to a failure to verify income, DHS would not also make a benefit determination. Secondly, DHS conceded that Claimant was denied benefits on the same date that she applied. DHS could not have possibly mailed a DHS-3503 to Claimant and gave Claimant 10 days to return verifications if Claimant was denied on the same date that she applied. The actual reason for denying Claimant's benefit requests was excess income.

It was not disputed that Claimant received employment income during the first quarter of 2013 (1/2013-3/2013). DHS contended that once it was discovered that Claimant received employment income sometime in 1/2013-3/2013, it was mandatory that the income was counted in Claimant's budgets for 5/2013. DHS provided no policy support to justify an assumption that previous income establishes ongoing income.

DHS is to verify income at application and at redetermination. BEM 505 (10/2010), p. 11. DHS is to verify changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. *Id.* DHS is to verify income that stopped within the 30 days prior to the application date or while the application is pending before certifying the EDG. *Id.*

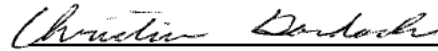
Claimant may have received employment income from 1/2013-3/2013, but this does not presume that Claimant had income as of 5/9/13 (the date of Claimant's application) or even in the 30 days prior. Accordingly, DHS had no basis to assume that Claimant received employment income in the FAP, FIP and MA benefit determinations. And as noted above, even if DHS had better reason to suspect that Claimant received employment income, DHS failed to establish that verification was properly requested. Based on the presented evidence, it is found that DHS improperly denied Claimant's application requesting FAP, FIP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP, FIP and MA benefits. It is ordered that DHS:

- (1) re-register Claimant's application dated 5/9/13 requesting FAP, FIP and MA benefits;
- (2) process Claimant's FAP, FIP and MA benefit eligibility subject to the findings that Claimant reported no ongoing employment income and that DHS had insufficient evidence to indicate otherwise; and
- (3) initiate supplement of any benefits not issued as a result of the improper program denials.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/28/2013

Date Mailed: 6/28/2013

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

CG/hw

cc:

