

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201326876
Issue No.: 3015
Case No.: [REDACTED]
Hearing Date: March 12, 2013
County: Oakland 02

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 March 12, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Assistance Payments Worker (APW) [REDACTED] and Assistance Payments Supervisor (APS) [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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 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 February 1, 2013, the Department denied Claimant's application closed Claimant's case due to excess income and reduced household composition.

3. On January 17, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 28, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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, R 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, R 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 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 2000 AACS, R 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, R 400.5001 through Rule 400.5015.

During the hearing it was not contested that the Claimant's household composition was reduced by one. The issue in this case was whether or not the Claimant's actual [REDACTED] expenses were allowable, as opposed to the Claimant receiving 25% of the total proceeds of the [REDACTED] income. The Claimant testified that her actual expenses were much higher than 25% of her total proceeds. The Department testified that many of the Claimant's [REDACTED] expenses were simply not allowable as they were co-mingled with her [REDACTED]. Furthermore, the Department argued that some expenses were clearly personal and therefore not allowable, such as the Claimant's [REDACTED]. The Claimant's [REDACTED] need not wear a uniform for his [REDACTED] and therefore [REDACTED] were not allowable. The expense receipts in evidence do establish that the Claimant's [REDACTED] and [REDACTED] are on the same account. Furthermore, the Claimant's [REDACTED] receipts do not distinguish between what is [REDACTED] and what is [REDACTED]. The Claimant testified that she had a [REDACTED] which would distinguish between such.

Bridges Eligibility Manual (BEM) 502 (2012) p. 3 provides that allowable expenses are the higher of 25% of the total proceeds, or actual expenses **if the Claimant chooses** to claim and verify those expenses. BEM 502 pp. 3, 4 further provide that personal entertainment or other individual business expenses **not** be entered as self-employment expenses. In this case, the Claimant clearly chooses to claim actual expenses and did submit verification of such expenses. The Department determined that the verification was insufficient as it did not completely distinguish between personal and business expenses and therefore, the Department simply budgeted the Claimant's [REDACTED] income with a 25% allowable deduction. BEM 554 p. 2 instructs the Department's workers that they must verify **the responsibility** to pay and **the amount** of certain expenses.

Bridges Assistance Manual (BAM) 130 (2012) p. 5 instructs Department workers to send a negative action notice when the client indicates refusal to provide a verification, or when the time period given has elapsed and the client has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had not lapsed and the Claimant did make a reasonable effort to provide the verification, though the Department determined it was insufficient. BAM 130 p. 2 instructs Department workers to tell Claimants what verification is required and how to obtain it using a DHS 3503, Verification Checklist. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 p. 3 provides that if neither the Claimant nor the Department's worker can obtain verification despite a reasonable effort, the Department's worker is to use the best available information. If **no** evidence is available, the Department worker is to use his or her best judgment.

In this case, the Claimant testified that she could provide further evidence to establish how much of the [REDACTED] and [REDACTED] were used for [REDACTED] and how much was used for [REDACTED] use. Furthermore, the Claimant testified that she could do the same with her [REDACTED]. As the policy clearly indicates that it is the Claimant's choice to opt either for 25% of the total proceeds or actual expenses if she can verify them, the Administrative Law Judge concludes that the Department erred when it summarily choose 25% of the total proceeds for the Claimant's budget, as

opposed to first issuing a DHS, 3503, Verification Checklist requiring further verification of what was an actual self-employment expense and what was a personal expense.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly 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.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate action to redetermine the Claimant's eligibility for FAP by having the Claimant further verify which expenses are actual self-employment expense and which are personal, and
2. Initiate action to issue the Claimant any supplement that she may thereafter be due.

/s/ _____
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 13, 2013

Date Mailed: March 20, 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

SEH/tb

cc:

