

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

IN THE MATTER OF:



Reg. No.: 201313494
Issue No.: 3003
Case No.:
Hearing Date: January 7, 2013
County: Wayne (31)

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 January 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Specialist.

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 October 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to changes in income and household expenses.
3. On October 10, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On September 27, 2012, 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 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 AAC, 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.

Additionally, the Department testified that, in connection with a FAP redetermination, it recalculated Claimant's FAP budget. As a result, Claimant's monthly FAP benefits decreased to \$29, effective October 1, 2012.

At the hearing, the Department failed to present a copy of Claimant's FAP budget showing how Claimant's monthly FAP benefits were calculated. Consequently, the figures shown on the December 10, 2012, Notice of Case Action were considered. The Notice indicates that Claimant's gross monthly unearned income totaled \$1508. The Department testified that this income was based on Claimant's gross biweekly \$628 in unemployment compensation benefits (UCB), and the \$158 she received in Family Independence Program (FIP) benefits as an ineligible grantee on behalf of the child over whom she had guardianship. Although Claimant questioned whether her income should be considered when she wanted to obtain FAP benefits primarily for the benefit of the child, a caretaker who provides care for a child under 18 who lives with her and the child must be in the same FAP group and the income of the caretaker is considered in determining the group's income. BEM 212 (November 1, 2012), pp 1-2. FIP benefits are considered the unearned income of the FIP grantee. BEM 550 (February 1, 2012), p 2. Therefore, the Department properly included Claimant and the child in the same FAP group and considered both Claimant's UCB payments and the FIP allotment as her unearned income. To determine Claimant's gross monthly UCB benefits, the Department is required to multiply the biweekly payments of \$628 by 2.15, which results in gross monthly UCB benefits of \$1350. See BEM 505 (October 1, 2010), pp 6-7. The sum of the gross monthly UCB benefits of \$1350 and the monthly \$158 FIP allotment results in gross monthly unearned income of \$1508, consistent with the amount indicated on the Notice.

Claimant verified that her monthly rental obligation was \$340 and her FAP group consisted of two members. The Notice indicates that the Department applied the \$148 standard deduction Claimant was eligible to receive based on her group size. BEM 556 (July 1, 2011), p 3. Although the Department testified that Claimant was not responsible for heat and utilities, all FAP cases receive the heat and utility standard deduction, which is currently \$575. BEM 554 (October 1, 2012), pp 11-12; RFT 255 (October 1, 2012), p 1. A review of the the calculation of Claimant's excess shelter deduction shows that the Department did apply the heat and utility standard deduction to Claimant's case, consistent with the information in the Notice of Case Action. A review of the Department's calculation of Claimant's FAP budget based on the foregoing figures and information shows that the Department acted in accordance with Department policy when it calculated that she was eligible for monthly FAP benefits of \$29 effective October 1, 2012, ongoing. BEM 556; RFT 260 (October 1, 2011), p 10.

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, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 11, 2013

Date Mailed: January 11, 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,

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- 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/hw

cc:

