

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201313927
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: January 10, 2013
County: Oakland (03)

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 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

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 December 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On November 19, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On November 26, 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 AACCS, 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, on December 1, 2012, the Department closed Claimant's FAP case because her income exceeded the income limit for her FAP group size.

At the hearing, Claimant's net income budget for December 2012 was reviewed. The budget showed gross monthly earned income of \$1478. In determining a client's gross monthly earned income, the Department must convert income that is received more often than monthly to a standard monthly amount by multiplying average biweekly pay by 2.15 or by adding together amounts received twice a month. BEM 505 (October 1, 2010), p 6. Claimant credibly testified at the hearing that she was paid twice a month, on the 10th and 25th of each month. However, based on Claimant's paystubs, the Department's gross income calculation of \$1478 was 2.15 times Claimant's average pay. Because the Department was required to add the pay together, and not apply a multiplier, the Department did not act in accordance with Department policy in calculating Claimant's gross monthly earned income.

Claimant was also concerned about the calculation of her child support income. The total amount of court-ordered direct support is counted as unearned income and is considered in the calculation of a client's FAP budget. BEM 503 (November 1, 2012), p 7; BEM 556 (July 1, 2011), p 2. The calculation of monthly child support income requires use of an average of the past three months' received payments unless changes are expected. BEM 505, p 3. If payments for the past three months vary, the Department must discuss the pattern of payment with the client to determine if the pattern is expected to continue. BEM 505, p 3. If the irregular pattern is expected to continue, then the Department must use the average of these three months. BEM 505, p 3. If there are known changes that will affect the amount of the payments for the future, then the Department must not use the past three months to project future support. BEM 505, p 3. The Department must document the discussion with the client and how the amount to budget child support was determined. BEM 505, p 3.

The Department testified that it based Claimant's monthly unearned income from child support of \$1716 on the following income she received from the children's father for **each** of their three children: \$686 in August 2012; \$366.09 in September 2012; and \$277.02 in October 2012. Claimant explained that the fluctuations in child support were due to the fact that the father had had his child support obligation reduced in January 2012 but Claimant had had it increased in April 2012, with retroactive coverage. She presented a Final Uniform Child Support Order dated April 25, 2012, showing that the father's combined child support obligation for all three children was \$831.06 effective February 13, 2012.

At the hearing, Claimant testified that she advised the Department that the monthly child support payments varied because the father was paying additional amounts to cover the

increase that was retroactive to February 2012 and that he was ultimately obligated to pay only \$831.06 in total monthly child support for all three children. By failing to consider and discuss the fluctuations in child support with Claimant and take into consideration known changes, the Department did not act in accordance with Department policy when it calculated Claimant's gross monthly unearned income from child support. Based on the evidence presented, the Department should have used \$831.06 as Claimant's gross monthly unearned income from child support.

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.

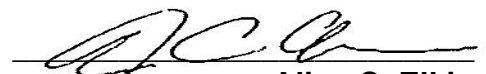
DECISION AND ORDER

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.

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

1. Reinstate Claimant's FAP case as of December 1, 2012;
2. Begin recalculating Claimant's FAP budget for December 1, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from December 1, 2012, ongoing; and
4. 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: January 15, 2013

Date Mailed: January 15, 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/hw

cc:

