

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

IN THE MATTER OF:



Reg. No.: 201314148
Issue No.: 3015
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 Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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)? |
| <input type="checkbox"/> Direct Support Services (DSS)? | |

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). |
| <input type="checkbox"/> Direct Support Services (DSS). | |

2. On November 30, 2012, the Department
 denied Claimant's application closed Claimant's case
due to excess income.
3. On November 19, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 28, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, R 400.3101 through R 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 Mich Admin Code, R 400.3001 through R 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 Mich Admin Code, R 400.3151 through R 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 Mich Admin Code, R 400.5001 through R 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, at the hearing, the Department testified that Claimant's FAP budget was recalculated in connection with his mid-certification. The Department concluded that Claimant's net income exceeded the net income limit for his group size of one and notified Claimant in a November 19, 2012, Notice of Case Action that his FAP case would close effective December 1, 2012.

At the hearing, the Department produced a FAP budget showing the calculation of Claimant's net income. The budget showed that Claimant had monthly unearned income of \$2171 and that he was the only member of his FAP group, which he confirmed. Claimant contended that he had medical expenses and child support obligations that exceeded amounts indicated for the medical deduction and child support deduction, respectively, in the FAP budget. However, the Department credibly testified that Claimant had confirmed the Department's use of the figures used in the budget on his mid-certification form. Because Claimant did not indicate a change in expenses and provide proof of the expense, the Department acted in accordance with Department policy when it used the medical and child support deductions that Claimant had confirmed in his mid-certification in the FAP budget. BAM 210 (November 1, 2012), pp 7-8.

There were also concerns raised at the hearing concerning whether Claimant's shelter expenses were considered in the calculation of his net income and the amount considered, if any. At the hearing, the Department testified that Claimant had indicated in his mid-certification that he was responsible for \$600 of the monthly \$1200 rent on his home. The Department initially indicated that, because no verification of rent was provided, it did not consider any shelter expenses in calculating Claimant's FAP budget. However, the Department then testified that it did, in fact, consider \$600 for rent. The Department did not provide an excess shelter deduction budget at the hearing to show the figures it considered in calculating the \$91 excess shelter deduction shown on the FAP budget. However, a subsequent review of the budget figures shows that the Department considered only the \$575 heat and utility shelter deduction available in all FAP cases and **no** monthly shelter expenses in calculating the excess shelter deduction. See BEM 554 (October 1, 2012), p 11; RFT 255 (October 1, 2012), p 1; BEM 556 (July 1, 2011), p 4.

If Claimant provided verification of his lease expense of \$1200 with the mid-certification, he would be eligible to have the full \$1200 expense considered in the calculation of his

excess shelter deduction. See BAM 210, pp 7-8; BEM 554 (October 1, 2012), p 10. If Claimant indicated in his mid-certification that there was a change in his shelter expense but failed to provide any verification, then the Department could remove the expense entirely from the calculation of the excess shelter deduction. BAM 210, pp 7-8. Because the Department failed to establish at the hearing whether Claimant provided verification of any changes in shelter expenses reported in the mid-certification and because its testimony that it considered Claimant's rent in the calculating the excess shelter deduction is inconsistent with the amount of the excess shelter deduction, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the excess shelter deduction, and consequently, Claimant's net income. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FAP case based on excess income.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record and above, 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 DSS.

DECISION AND ORDER

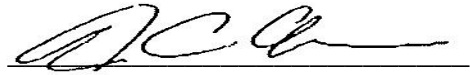
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

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

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 reprocessing Claimant's mid-certification in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for any FAP benefits he 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:

