

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

IN THE MATTER OF:

████████████████████
██
██

Reg. No.: 2013 20509
Issue No.: 2013
Case No.: ██████████
Hearing Date: May 8, 2013
County: Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. The Claimant's Authorized Hearing Representative, ██████████ also appeared. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Assistance Payments Supervisor, and ██████████, Assistance Payments Worker.

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 type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA) and QMB? | <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 type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |
| <input checked="" type="checkbox"/> QMB Cost Sharing Program | |

2. On January 1, 2013, the Department denied Claimant's application
 closed Claimant's case reduced Claimant's benefits
due to excess income.
3. On December 11, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
4. On December 19, 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, In this case it was established by the Department that based upon Claimant's gross income, the Claimant was no longer eligible for the QMB Medicaid cost savings program as her income exceeded the income limit for the program. The Department's evidence included the QMB budget which was based upon \$1247 in income received by the Claimant. The Claimant's AHR confirmed that the income amounts used by the Department to determine ongoing eligibility for QMB at the time were correct. Based upon the Budget the Department did establish that the Claimant was no longer eligible for QMB Program. Exhibit 3.

The QMB closed as a result of a redetermination conducted by the Department. Although the Department testified that it completed an ex parte review before it closed the QMB program and the Claimant's Medicaid case, it did not establish that Medicaid eligibility subject to a spend down was considered by the Department before the Medicaid case closure. BAM 105 provides that:

Medicaid (MA) Only

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 105, pp1 (11-1-12).

The Claimant testified that she was 82 years of age at the hearing and thus her eligibility for Group 2 Medicaid with a spend down should have been considered before her Medicaid case was closed.

Based upon the above Findings of Fact and Conclusions of Law, 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 QMB case

It is further concluded that the closure of the Claimant's Medicaid case was incorrect as no ex parte review was made to determine Claimant's Medicaid eligibility subject to a spend down.

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 for closure of QMB due to excess income did not act properly for closure of Medicaid as there was no ex parte review to determine Medicaid eligibility for a spend down.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED with regard to closure of the QMB program REVERSED with regard to the Medicaid case closure.

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

1. The Department shall initiate reinstatement of the Claimant's Group 2 Medicaid case retroactive to the date of closure, January 1, 2013, and complete an ex parte review to determine Claimant's eligibility for any other medical assistance program including the Group 2 Medicaid.
2. If the Department determines the Claimant is eligible for Medical Assistance benefits it shall activate benefits accordingly.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 29, 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 affect the substantial rights of the claimant:
 - 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

LMF/cl

cc: [REDACTED]
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[REDACTED]
[REDACTED]
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