

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

IN THE MATTER OF:



Reg. No.: 201321034
Issue No.: 1017; 2013; 3015
Case No.: [REDACTED]
Hearing Date: February 7, 2013
County: Wayne (35)

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 February 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP), Medical Assistance (MA) and Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In November 2012, Claimant applied for FAP, MA and FIP benefits.
2. On December 5, 2012, the Department denied Claimant's application on the basis that Claimant had failed to verify requested information.
3. The Department subsequently concluded that it erred in processing Claimant's application and reregistered and reprocessed the application.
4. On December 18, 2012, Claimant filed a request for hearing disputing the Department's action.

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.

Additionally, at the hearing, the Department acknowledged that it had erroneously denied Claimant's application on December 5, 2012, for failure to provide requested verification. The Department testified that it subsequently reregistered and reprocessed

Claimant's application and found her ineligible for FAP, FIP and MA based on excess income.

At the hearing, the Department provided a copy of the FIP budget showing the calculation of Claimant's income eligibility. The Department testified that Claimant's income consisted of self-employment income of \$1200, which it verified based on bank statements received from Claimant. Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. BEM 502 (October 1, 2012), p 3. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502, p 3.

In this case, the Department testified that \$1200 were the total proceeds identified from Claimant's documentation. The Department's testimony showed that the Department did not consider Claimant's allowable expenses in calculating Claimant's self-employment income. Because the Department did not properly calculate Claimant's self-employment income, it did not act in accordance with Department policy in calculating Claimant's FIP income eligibility.

The Department did not provide FAP or MA budgets showing the calculation of Claimant's eligibility for those programs. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP and MA application on the basis of excess income. It is noted that Claimant testified at the hearing that she is blind. If Claimant identified her disability in her application and she is determined disabled in accordance with Department policy, the Department should consider Claimant's Senior/Disabled/Veteran (SDV) status in the processing and calculation of her FAP benefits. See BEM 550 (February 1, 2012), pp 1-2, 4-5; BEM 554 (October 1, 2012), p 1.

DECISION AND ORDER

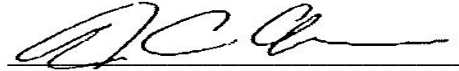
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it denied Claimant's FIP application and it failed to satisfy its burden of showing that it acted in accordance with Department policy in denying Claimant's FAP and MA application.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Reregister Claimant's November 2012 FIP, MA and FAP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;

3. Issue supplements to Claimant for any FIP and/or FAP benefits she was eligible to receive but did not from the date of application, ongoing;
4. Provide Claimant's group with the MA coverage it is eligible to receive from the date of application ongoing; and
5. 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: February 8, 2013

Date Mailed: February 8, 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:

