

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201327498
Issue No.: 2014
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 March 13, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] participants on behalf of Department of Human Services (Department) included Assistance Payments Worker (APW) [REDACTED] and Family Independence Manager (FIM) [REDACTED]

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 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)? |

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 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). |

2. On February 1, 2013, the Department denied Claimant's application closed Claimant's case due to excess income.

3. On January 12, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On January 23, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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, R 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, R 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 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 2000 AACS, R 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, R 400.5001 through Rule 400.5015.

The MA budget in evidence indicates that the Claimant has excess income to be eligible for MA by just \$ [REDACTED]. The Claimant testified that her circumstances have remained the same, but for a [REDACTED] cent raise. The Department testified that such a raise could likely account for the Claimant having \$ [REDACTED] of excess income to be eligible for MA. The Claimant did not contest the earned income or [REDACTED] income budgeted.

During the hearing, the Administrative Law Judge asked the Department to explain the budget. The Department's worker testified that she was unable to do so without referencing the policy, specifically Bridges Eligibility Manual (BEM) 545 (2011), and indicated that she was trying to access the computer to do so, but the computer was slow. After a very lengthy delay the Administrative Law Judge informed the parties that she would research the policy, review the issues and render a decision subsequent to that. The Administrative Law Judge's research revealed that the correct policy for an Other Healthy Kids budget was BEM 536 (2010).

It appears that the Department counted the Claimant's bi-weekly income of \$ [REDACTED] and multiplied that by 2 to obtain a monthly amount of \$ [REDACTED] which is consistent with what BEM 530 (2012) p. 3 provides by instructing the Department's worker to not budget an extra check. BEM 536 (2010) p. 1, provides that \$ [REDACTED] be deducted from the countable earned income, which would leave a remaining amount of \$ [REDACTED]. There is no evidence that the Claimant received LIF of FIP in the four months preceding the budget, and therefore, the Administrative Law Judge concludes that the \$ [REDACTED] and 1/3 disregard would not apply in this case. There was no evidence presented at the hearing regarding a Dependent care deduction and as such, none is considered.

The Department testified that it used an average of three months of [REDACTED] for October (\$ [REDACTED]), September (\$ [REDACTED]) and August ([REDACTED]) of 2012, for each of the [REDACTED]. The Administrative Law Judge calculates that the average is \$ [REDACTED]. BEM 536 (2010) p. 2, then instructs that \$ [REDACTED] be deducted from the fiscal group member's [REDACTED] income, which would leave a balance of [REDACTED] and \$ [REDACTED] for a total of \$ [REDACTED] as there are two in the fiscal group. The policy further instructs that the remaining unearned and earned income be added together for a total of [REDACTED]. As there was no evidence of any [REDACTED] payment or any court-appointed guardianship/conservator expenses, the remaining figure is to be the fiscal group's total net income. This is not the figure contained in the budget presented by the Department. Indeed, is it some \$ [REDACTED] greater than what the department indicates is the fiscal group's total net income.

Upon a careful review of the budget in evidence (Exhibit 10), the Administrative Law Judge can not determine if the [REDACTED] cent raise was sufficient to cause the Claimant's eligibility for MA to end. Indeed, the Administrative Law Judge can not reconcile how it is that there are two different MA budgets in evidence with two different net incomes, with two different certification periods, though there is only evidence of the one check stub of earned income and as the [REDACTED] income is exactly the same for both children. The Department could not explain this to the Administrative Law Judge without accessing the policy at the hearing. Having accessed the appropriate policy and having attempted to do the math, the Administrative Law Judge can not reconcile the figures used as income, the budget and the policy. Therefore, the Administrative Law Judge concludes that the evidence is insufficient to establish that the Department

was acting in accordance with its policy when taking action to close the Claimant's MA case.

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 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.

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 decision is AFFIRMED REVERSED for the reasons stated 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. Initiate action to redetermined the Claimant's eligibility for MA, and
2. Present a budget which can be explained that comports with BEM 536, and
3. Initiate action to issue the Claimant any supplements she may thereafter be due.

/s/ _____
Susanne E. Harris
 Administrative Law Judge
 For Maura Corrigan, Director
 Department of Human Services

Date Signed: 3/9/13

Date Mailed: 3/9/13

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

SEH/tb

cc:

