

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

IN THE MATTER OF:



Reg. No.: 2013 41105
Issue No.: 3002
Case No.:
Hearing Date: May 13, 2013
County: Wayne County DHS (17)

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 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included , ES.

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 February 1, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income and improperly calculating the monthly homeowner's insurance and property tax expenses.
3. On January 2, 2013, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On April 9, 2013, 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 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.

Additionally, in this case the calculations used to determine the Claimant's Food Assistance Benefits were reviewed and it was determined that the Department used the correct monthly unearned income the Claimant receives from Social Security (RSDI) Exhibit 1 and 3. The Claimant did receive an increase in RSDI of \$20 which income caused the Claimant's Food Assistance to decrease. Also the excess shelter expense calculation was reviewed. The homeowners insurance annual payment of \$1159 and annual property taxes in the amount of \$1792 were confirmed as correct based upon receipts in the file previously submitted and verified by the Claimant to the Department. Exhibit 2. After a review of these expenses it is determined that the Department's calculation is incorrect, as the total expenses when divided by 12 to determine the monthly amount, are \$246. The Department incorrectly used \$305 as the monthly expense amount, and therefore over credited the expense when calculating the excess shelter amount. BEM 554 pp 10, (10/1/12). Based upon the review at the hearing, it does appear that the Claimant's food assistance will be further decreased as the excess shelter amount will be decreased, thereby affecting the amount of net income causing it to increase, which may likely cause the Food Assistance Benefits to further decrease.

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do not allow insurance costs for the contents of the structure, for example, furniture, clothing and personal belongings. BEM 554 pp10 (10/1/12)

I also find that the Claimant's hearing request was not based upon the Notice of Case action dated January 2, 2013 and therefore was not late. BAM 600, pp3 (2/1/13). The hearing request was based on the current level of FAP benefits specified.

For FAP only, the client or authorized hearing representative may request a hearing disputing the current level of benefits at any time within the benefit period. A recipient of benefits may ask for a hearing at any time to determine if the amount of benefits allotted to them are correct. BAM 600, pp4 (2/1/13)

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.

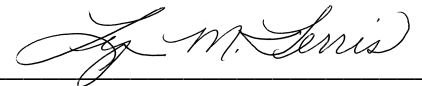
DECISION AND ORDER

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

THE DEPARTMENT SHALL INITIATE WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER, THE FOLLOWING:

1. The Department shall recalculate the Claimant's FAP benefits and shall include the correct insurance and taxes expense when calculating the shelter expense based upon the Claimant's monthly homeowners insurance and property taxes as set forth in this decision. The Department shall provide written notice to the Claimant of any change in FAP benefits which result as the recalculation ordered by this Decision.



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

Date Signed: May 15, 2013

Date Mailed: May 16, 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/tm

cc:

