

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

IN THE MATTER OF:

████████████████████
████████████████████
██

Reg. No.: 2013 44501
Issue No.: 3003
Case No.: ██████████
Hearing Date: May 30, 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 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and ██████████ the Claimant's Authorized Hearing Representative and Interpreter. Participants on behalf of the Department of Human Services (Department) included ██████████ Family Case Manager.

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. The Claimant provided information on April 2, 2013 that a FAP group member had left the FAP group as of December 20, 2012. Exhibit 3.
3. The Claimant's unearned income for Claimant and her spouse was \$533 as of January 1, 2013 and her spouse's income was \$533. Exhibit 6 and 7. These amounts were confirmed at the hearing.
4. The Claimant's FAP group was reduced by one person and is now a FAP group of 4 members. The person who left the group was under 21 years of age and was living with the group. The Claimant's FAP group is also considered an SDV group due to the Claimant's spouse receiving SSI. Exhibit 7.
5. The Claimant also receives FIP (cash assistance) in the amount of \$274 per month. The Claimant continues to receive FIP benefits. Exhibit 5.
6. The Department introduced two FAP budgets covering the period March 2013 where FAP benefits were calculated at \$374; and a FAP budget for April 2013 where FAP benefits were calculated at \$307. Exhibits 9 and 10.
7. The Department did not include Claimant's rent in the FAP budget as no rent was reported by the Claimant. The Claimant's rent is \$750.
8. The group member who left the group was the Claimant's daughter who is 20 years of age. The daughter provided pay stubs to demonstrate income for May and June of 2012 that was previously unreported. Three pay stubs were provided for these months; \$288, \$300, \$455 and based on these pay stubs earned income of \$619 was included in March 2013 FAP budget and not included in the April 2013 FAP budget as the group member was no longer living in the home.
9. The Department provided two FAP budgets for March and April, 2013. Exhibit 9 and 10. The March 2013 FAP budget included earned and unearned income and calculated benefits at \$374; the April 2013 budget did not include earned income and calculated FAP benefits at the current benefit level of \$307. Exhibit 9 and 10.
10. On March 1, 2013, and April 1, 2013 the Department denied Claimant's application closed Claimant's case reduced Claimant's FAP benefits due to earned income and change in group size.
11. On April 24, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure. reduction.
12. On April 29, 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 several factors caused the Claimant's Food Assistance (FAP) to fluctuate and change in March and April 2013. When the Department received notice that the Claimant's daughter had left the group in April 2, 2013 it recalculated the FAP budgets for March and April. The March 2013 FAP budget will be analyzed first. The Department included earned income of \$619 (attributed to daughter) and unearned income of \$1086. Neither of the income amounts appears to be correct. The earned income based on the pay stubs and pay received bi-weekly should have been $(\$300 + \$288 = \$588 \text{ divided by } 2 = \$294 \times 2.15 = \$632)$. BEM 505, pp. 6-7 As no explanation was provided by the Department as to how the unearned income was calculated, it is unclear how it determined that \$619 was the correct amount based upon the pay stub information provided. One of the pay stubs was obviously higher than usual and should have been excluded in the calculation above as non-representative. Based upon the evidence provided it is determined that the Department did not correctly calculate the earned income. Because the earned income amount is determined to be incorrect, the earned income deduction amount of \$124 (20% of the earned income) is also incorrect. Likewise, the unearned income calculation also was not correct. The unearned income received by the FAP group was based on two SSI checks and FIP benefits $(\$533 + \$533 + \$274)$ for a total of \$1340. The Department did not explain how it calculated the unearned income to be \$1360 so that amount is determined to be incorrect as the evidence provided does not support that amount. The remainder of the budget as regards the standard deduction and group of 5 members is correct. The March budget does not include an excess shelter amount even though Claimant is entitled to a \$575 (utility standard allowance) for utilities as required by RFT 255 and BEM 554. The Department's determination regarding shelter expense may change as a result of the correct calculation of both earned and unearned income such that an excess shelter deduction may be available. Based upon this review the FAP budget for March as presented is incorrect and must be recalculated.

The FAP budget for April 2013 does not include any earned income as the Claimant's group was then only 4 members and is correct. Again the unearned income of \$1360 is incorrect based upon the evidence provided by the Department. Likewise no shelter deduction of any amount was included and is determined to be incorrect for the same reason explained in the preceding paragraph. In this case the Claimant's unearned income of \$1340 minus the standard deduction of \$159 is \$1181 which when divided by

2 is \$590 less the shelter expense for utilities of \$575 yields an excess shelter deduction of \$15. See RET 255. The group size of 4 is correct as is the Standard deduction for a group of 4 members (\$159) .

At the hearing it was correctly determined that the claimant had not previously provided rent verification, once provided the Claimant's FAP benefits will be adjusted again to include this expense.

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.

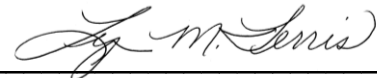
DECISION AND ORDER

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

1. The Department shall re calculate the Claimant's FAP benefits for March 2013 and April 2013 in accordance with this Decision as regards earned and unearned income amounts and shall also review the Claimant's eligibility for any excess shelter deduction for the March 2013 budget.
2. The Department shall issue a FAP supplement, if any is appropriate, based upon its recalculation of the FAP benefit, in accordance with Department policy.



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

Date Signed: June 5, 2013
Date Mailed: June 5, 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]
[REDACTED]
[REDACTED]
[REDACTED]
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