

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013 53860
Issue No.: 3003
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (15)

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 July 18, 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 June 1, 2013, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On June 3, 2013, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On June 13, 2013, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

The Department included unearned income from child support received in the amount of \$304 per month based on the last 3 months of support received in the amount of \$690.80, \$222.90 and \$371.50. Exhibit 3

The Department properly included rent in the amount of \$600. Exhibit 6

The Department included unearned income due to unemployment benefits in the amount of \$1371. Exhibit 2

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 Department recalculated the Claimant's Food Assistance after it determined based upon the semi-annual review that the Claimant was receiving unemployment compensation benefits in the amount of \$319 per week. Exhibit 3. The Claimant requested a hearing to determine if the amount of the FAP benefit reduction was correct.

The Department prior to the July FAP budget had not included any income when calculating FAP benefits. The Department, based upon the semi-annual review, correctly determined that the Claimant's gross unearned income from unemployment benefits was \$1371 ($\$319 \times 4.15 = \1371) and included this unearned income in the FAP benefit calculation. The Department also properly included the rent in the correct

amount when calculating the excess shelter deduction. When computing the unearned income from child support the Department included \$690.80 received in March which amount was larger than the other payments for April and May because March included arrearages. BEM 505 provides that when computing unearned income from child support the Department may not include amounts that are unusual and not expected to continue. Based upon this evidence it is determined that the FAP benefits must be recalculated by the Department and the amount for March child support, as it is unusual and not expected to continue, must be excluded when determining the unearned child support income.

As the amount of the monthly gross income as calculated above is incorrect for the reasons stated above, the Department's action and the amount of FAP benefit reduction is determined to be incorrect and must be recalculated as the FAP benefits as calculated are not in accordance with Department policy.

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

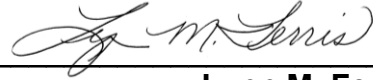
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

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 initiate recalculation of the Claimant's FAP benefits for July 2013 in accordance with this Decision and Order and shall determine the correct FAP benefit amount and any supplement amount, in accordance with Department policy.

2. The Department shall issue a FAP supplement to the Claimant for FAP benefits the Claimant was otherwise entitled to receive, if any, in accordance with Department policy.



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

Date Signed: July 26, 2013

Date Mailed: July 26, 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

LMF/cl

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]