

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

IN THE MATTER OF:



Reg. No.: 20139361
Issue No.: 3008
Case No.:
Hearing Date: February 7, 2012
County: Oakland (02)

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, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Assistance Payment Supervisor.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits for October 2012 and close her FAP case effective November 1, 2012?

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 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).
<input type="checkbox"/> Direct Support Services (DSS).	

2. On October 3, 2012, the Department sent Claimant a Notice of Case Action reducing her FAP benefits to \$16 effective October 1, 2012.

3. On October 29, 2012, Claimant filed a request for hearing disputing the Department's actions.

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.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, et. seq., and Mich Admin Code R 400.3603.

Additionally, on October 3, 2012, the Department sent Claimant a Notice of Case Action notifying her that her monthly FAP benefits were approved for \$16, beginning October 1, 2012. The Department subsequently sent Claimant another Notice of Case Action closing her case effective November 1, 2012, based on Claimant's failure to provide requested verifications.

After Claimant reported new employment at Allegra to the Department on August 20, 2012, the Department sent Claimant a Verification Checklist (VCL) on September 12, 2012, requesting, by September 24, 2012, (i) verification of loss of employment in the form of employment records, employer statement or Verification of Employment form (DHS-38) and (ii) verification of wages in the form of the last 30 days check stubs or earning statements, an employer statement or a DHS-38. The Department included copies of the DHS-38 form, one identifying [REDACTED] as the employer, the other identifying Jeantiques, an employer Claimant had previously identified, as the employer. On September 25, 2012, the Department received the DHS-38 from [REDACTED].

On October 3, 2012, the Department sent Claimant a Verification Checklist (VCL) requesting paystubs from her employment with [REDACTED] by October 15, 2012. At the hearing, Claimant credibly testified that she had not worked for [REDACTED] since March 2012 and that she had reported this loss of employment to the Department at that time. In response to the October 3, 2012 VCL Claimant submitted copies of checks she received from [REDACTED] between January 16, 2012, and March 12, 2012, when she last worked at [REDACTED].

For FAP cases, the Department must verify income that decreases or stops. BEM 500 (November 1, 2012), p 9. While the October 3, 2012, VCL requested paystubs from Jeantiques and Claimant complied with this request by providing the last paystubs she had, the September 12, 2012, VCL asked that Claimant verify loss of employment and included a DHS-38 with [REDACTED]' name on it that, if completed, would have established the end of employment. Claimant's testimony established that she had never verified her end of employment at [REDACTED] by providing employment records, an employer statement or a DHS-38. In the absence of this verification of end of employment, the Department acted in accordance with Department policy when it closed Claimant's case effective November 1, 2012 for failure to verify requested information concerning the end of employment.

Additionally, at the hearing, the Department testified that Claimant's FAP benefits decreased to \$16 for the month of October 2012 based on Claimant's gross monthly income of \$297.56 from [REDACTED] and her gross monthly income for \$902 from [REDACTED]. However, Claimant's FAP budget for October 2012 shows total earned income of \$1574, which is not consistent with the Department's testimony. Therefore, the Department has failed to satisfy its burden of showing that it calculated Claimant's FAP budget for October 2012 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 the Department properly closed Claimant's FAP case effective November 1, 2012, but failed to satisfy its burden of showing that it calculated Claimant's FAP benefits for October 2012 in accordance with Department policy.

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 in closing Claimant's FAP case, but failed to satisfy its burden of showing that it calculated Claimant's October 2012 FAP budget in accordance with Department policy.

Accordingly, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the closure of Claimant's FAP case effective November 1, 2012, AND REVERSED IN PART with respect to the calculation of Claimant's October 2012 FAP benefits.

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

1. Begin recalculating Claimant's FAP benefits for October 2012 in accordance with Department policy; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not October 2012.


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/12/13

Date Mailed: 2/12/13

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

ACE/hw

cc:

