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

### IN

| IN THE MATTER OF:   |   |  |
|---|---|--|
|   | Reg. No.:<br>Issue No(s).:<br>Case No.:<br>Hearing Date:<br>County: | 201410232<br>3001, 6001<br>January 15, 2014<br>Ingham County DHS                   |
| ADMINISTRATIVE LAW JUDGE: Kevin Scully  |   |  |
| HEARING DECISION  |   |  |
| Following Claimant's r equest for a hearing, this mean Administrative Law Judge pursuant to MCL 400.9 at 42 CFR 431.200 to 431.250; 45 CFR 99. 1 to 99 notice, a telephone c onference hearing was held of Michigan. Participant's on behalf of Claimant inclubed behalf of the Department of Hum an Services (Department of Hum an Services) | and 400.37; 7 CFI<br>.33; and 45 CFR :<br>on January 15 , 2<br>uded | R 273.15 to 273.18;<br>205.10. After due<br>2014, from Lansing,<br>Participants on |
| ISSUE   |   |  |
| Due to excess inc ome, did the Depart ment<br>Development and Care (CDC) case and reduc e C<br>(FAP) benefits?  | t properly close C<br>Cla imant's Food A                            |  |
| FINDINGS OF FACT  |   |  |
| The Administrative Law Judge, based on t he converged by the evidence on the whole record, finds as material factors.   | •   | al, and substantial  |
| Cla imant ☐ applied for ☒ received:     ☐ FIP ☒ FAP ☐ MA ☐ AMP ☐ September its.   | SDA 🛛 CDC   |  |
| 2. On September 18, 2013, the Department clo<br>and Care (CDC) cas e and reduc ed Claima r  |   | •  |

3. On September 18, 2013, the Department sent Claimant/Claim ant's Authorized Representative (AR) its decision.

benefits due to excess income.

4. On October 1, 2013, Claimant/Claimant 's Authoriz ed Hearing Representativ e (AHR) filed a hearing request, protesting the Department's actions.

# **CONCLUSIONS OF LAW**

| Department policies are contained in the Department of Human Service s Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).  |
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| ☐ The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and W ork Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Depar tment (formerly known as the Family Independenc e Agency) administers FIP pursuant to MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.   |
| ∑ The Food Assistance Program (FAP) [fo rmerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as ame nded, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Fam ily Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.   |
| ☐ The Medical Ass istance (MA) program is es tablished by the Title XIX of the Soc ial Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 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.   |
| ☐ The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.31513180.  |
| Mark The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Social Security Ac t, 42 US C 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Res ponsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program purs uant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.50015020. |
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Additionally, the Department agreed that it had determined the Cla imant's countable income as bi-weekly income when it she act ually receives a bi-monthly paycheck. The Department agreed to redetermine eligibility based on this new income determination.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Claimant's countable income.

## **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

- ☑ THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN
  ACCORDANCE WIT H DE PARTMENT P OLICY AND CONSIS TENT WIT H THIS
  HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS
  DECISION AND ORDER:
  - 1. Initiate a determination of the Claimant 's eligibility for Food Ass istance Program (FAP) and Child Development and Care (CDC) benefits as of October 1, 2013.
  - 2. Provide the Claimant with a Notice of Case Action (DHS-16 05) describing the Department's revised eligibility determination.
  - 3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 16, 2014

Date Mailed: January 16, 2014

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the req uest of a p arty within 30 days of the mailing date of this De cision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final deci sion cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existe d at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights
  of the client;

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• Failure of the ALJ to a ddress in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings Reconsideration/Rehearing Request P.O. Box 30639 Lansing, Michigan 48909-07322

### KS/hj

cc: