

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-15121  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: February 6, 2014  
County: Macomb 12

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED]

**ISSUE**

Did the Department properly  close Claimant's case for:

- |  |   |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)?          | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)?              | <input type="checkbox"/> Child Development and Care (CDC)?  |
| <input checked="" type="checkbox"/> Medical Assistance (MA/AD-CARE)? | <input type="checkbox"/> Direct Support Services (DSS)?     |
| <input checked="" type="checkbox"/> Medicare Cost Share (QMB)?       | <input type="checkbox"/> State SSI Payments (SSP)?          |

**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  received:  MA/AD-CARE  QMB benefits.
2. On January 1, 2014, the Department  closed Claimant's case due to excess income.
3. On November 20, 2013, the Department sent Claimant its decision.

4. On December 3, 2013, Claimant filed a hearing request, protesting the Department's actions. In this hearing request, the Claimant also named his attorney as his AHR.

### **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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social 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 400.1-.119b. 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 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 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 Responsibility 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 pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

PROCEDURAL HISTORY: On February 4, 2014, the Department and the Michigan Administrative Hearing System received the Claimant's AHR's brief in support of the Claimant's request for hearing. On February 4, 2014, the Department did then request an adjournment for the purpose of obtaining an Attorney General for representation. On February 5, 2014, Supervising Administrative Law Judge [REDACTED] issued an order denying the request for adjournment. The hearing commenced as originally scheduled.

On November 12, 2013, the Claimant began to receive \$ [REDACTED] in [REDACTED]. The sole issue in this case is whether or not this [REDACTED] was issued to the Claimant as a disabled adult child (DAC). The [REDACTED] in evidence contains the [REDACTED]. Based on Claimant's exhibit B, this Administrative Law Judge concludes that this code is indicative of the Claimant receiving benefits as a [REDACTED]. The Department is not persuaded that the Claimant is a [REDACTED] because the [REDACTED] reflects a disability onset date of 1/1/80. In 1980, the Claimant would have been [REDACTED] years old. The Department testified that usually dependent adult children are designated as such by the [REDACTED] by the age of 22.

Bridges Eligibility Manual 158 (2013) p. 3, provides that all RSDI benefits for the person whose DAC eligibility is being determined are excluded. To be considered a DAC, BEM 158, pp. 1, 2, provides that the person must be 18 or older and must have received SSI: and ceased to be eligible for SSI on or after July 1, 1987 because the person became entitled to [REDACTED] benefits. In this case, the Department is continuing to budget the Claimant's [REDACTED] income. After the hearing the Department Eligibility Specialist did fax a copy of an email dated February 3, 2014 which indicates that the Claimant's [REDACTED] status is being investigated. It is the Department's burden of proving that the Claimant's [REDACTED] income is being properly counted because the Claimant is not a [REDACTED]. As the Department is continuing to investigate whether or not the Claimant is indeed a [REDACTED] and based on the record as a whole, this Administrative Law Judge concludes that the Department has not met its burden of establishing that the Claimant's [REDACTED] income is properly counted.

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 took action to close the Claimant's QMB and Ad-Care.

### **DECISION AND ORDER**

Accordingly, the Department's decision is  REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine the Claimant's eligibility for QMB and Ad-Care back to January 1, 2014, and
2. Issue the Claimant any supplement he may thereafter be due.



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Susanne E. Harris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 2/13/14

Date Mailed: 2/14/14

**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 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).

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

- Newly discovered evidence that existed 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;
- Failure of the ALJ to address 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

SEH/tb

cc:

