

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010 39671
Issue No.: 1005, 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 29, 2010
Wayne County DHS (49)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 29, 2010. The Claimant appeared and testified on her own behalf as did [REDACTED] a witness who appeared but did not testify. The Department's representatives [REDACTED], FIS appeared and testified on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP and FIP case; the Claimant's MA case and her son's MA case due to Claimant's failure to return the Redetermination in a timely manner?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

- 1) The Claimant was a FIP and FAP and MA recipient. The Claimant's son was also a MA recipient.
- 2) The Claimant's FIP, FAP and MA cases were closed on June 1, 2010 when the Department did not receive a timely response to the redetermination dated April 14, 2010. The Claimant's son's MA case was also closed on June 1, 2010. Exhibits 1 and 2
- 3) The Claimant was sent a Redetermination on April 14, 2010 and a Notice of Case Action on May 17, 2010 closing her FIP (cash Assistance) and MA for the Claimant and her son and her FAP benefits. Exhibits 1 and 2.

- 4) The Redetermination and the Notice of Case Action was addressed to the Claimant at [REDACTED].
- 5) At the time she was sent the Redetermination and the Notice of Case Action the Claimant no longer lived at the [REDACTED] address and thus did not receive the Redetermination and the Notice of Case Action.
- 6) The Claimant had not lived at the [REDACTED] address for over a year.
- 7) The Claimant filed a change of address with the Department on March 1, 2010 advising the Department that she was then residing at [REDACTED]. The Claimant came into the DHS office to file the change of address in person and in writing because she could not do so over the phone. It is also noted that the Claimant's request for hearing indicates that she filed a change of address in February 2010. Exhibit 3
- 8) The Claimant filed another Change of Address when she had to reapply for benefits on June 3, 2010 advising the Department that she was residing at the [REDACTED] address.
- 9) The Claimant only learned that she did not have benefits when her doctor informed her that she did not have medical benefits on June 3, 2010.
- 10) The Claimant had lived at several addresses since [REDACTED] address and filed her change of address for the [REDACTED] address after she moved there in February 2010.
- 11) The Claimant did not receive the Redetermination or the Notice of Case Action because it was improperly addressed by the Department.
- 12) The Claimant filed a change of address in March 2010 but her address was not changed in the DHS system.
- 13) The Claimant filed her request for a hearing on June 9, 2010 which was received by the Department on June 9, 2010.

CONCLUSIONS OF LAW

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 of Human Services (DHS) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children

(ADC) program effective October 1, 1996. Department policies are found in the Bridges/Program Administrative Manual (BAM), the Bridges/Program Eligibility Manual (BEM) and the Reference Tables (RFT).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

In this case, the Department mailed out a Redetermination requesting the claimant provide the Department with information. The claimant testified credibly that she did not respond to the Department's request for information because she did not receive the Redetermination or the Notice of Case Action closing her FIP, MA and FAP cases. Mail which is properly addressed and mailed is presumed to be received. The Claimant testified credibly that she did not receive the Redetermination. Because the Redetermination and the Notice of Case Action were sent to the incorrect address the Department did not properly close the Claimant's case for non cooperation. The Claimant also credibly testified that she had filed a change of address on March 1, 2010 giving the Department the proper notice of her new address on [REDACTED]. Additionally, the Claimant immediately responded when she received information from her doctor that she was no longer covered by Medicaid which caused her to immediately reapply for benefits and again file another change of address because she had not received either the Redetermination or the Notice of Case Action.

Under these circumstances, the Claimant's FIP, FAP and MA cases should not have closed. It is found that the claimant did not receive the Redetermination and thus the Department should not have closed the Claimant's FIP, FAP and MA cases. This finding was also influenced by the fact that the Department did not have the Claimant's file at the hearing and offered no evidence when it received the change of address and the caseworker could not recall if she had received a change of address from the Claimant. The undersigned finds that Claimant did not refuse to provide the requested information. Furthermore, it was not Claimant's fault that she did not receive the Redetermination.

Based upon the foregoing facts and relevant law, it is found that the Department's decision to close Claimant's FIP, FAP and MA case and her son's MA case is REVERSED for the reason that the Claimant did not receive the Redetermination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to close the Claimant's FAP, FIP and MA and her son's MA case for failure to timely respond to the Redetermination and therefore its actions must be REVERSED for the reason the Claimant did not receive the Redetermination. Accordingly, it is ORDERED:

1. The Department's decision to close the Claimant's FIP, FAP and MA case and her son's MA case on June 1, 2010 due to failure to timely respond to the Redetermination dated April 14, 2010 is REVERSED.
2. It is further ORDERED that Claimant's FAP, FIP and both the Claimant's MA case and her son's MA case shall be reinstated retroactive to the date of closure, June 1, 2010,
3. The Department is ORDERED and shall issue a supplement to the Claimant for any FAP, FIP or MA benefits she or her son were otherwise entitled to receive retroactive to the date of case closure June 1, 2010.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/30/2010

Date Mailed: 07/30/2010

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 of the rehearing decision.

LMF/ cjp

201039671/LMF

cc:

