

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

IN THE MATTER OF:



Reg. No.: 201141842
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: September 12, 2011
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 12, 2011, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] of [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], DHS Manager, and [REDACTED], DHS Specialist.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits 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)? | |

FINDINGS OF FACT

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

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant was was not provided with a Verification Checklist (DHS-3503).
3. Claimant was required to submit requested verification by 9/27/10.

4. On 9/30/10, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.
5. On 9/30/10, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.
6. On 6/8/11, Claimant filed a hearing request, protesting the
 - denial. closure. reduction.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the 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 1997 AACRS R 400.3101-3131. 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 1997 AACRS R 400.3001-3015

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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 1998-2000 AACRS R 400.3151-400.3180.

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 1997 AACRS R 400.5001-5015.

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

In the present case, DHS referenced a potential issue with the timeliness of Claimant's hearing request. It would appear that Claimant's hearing request was untimely based on a 9/30/10 DHS notice date and 6/8/11 hearing request date. Unfortunately, the issue was not developed at the hearing. As a result, neither side addressed the issue with any specifics.

There are possible arguments that could have been made by Claimant's AHR concerning the issue that might have made the request timely. It is possible that Claimant's AHR failed to receive the written notice. It is possible that a sooner hearing request was made. As it stands, an issue was already made on the merits concerning the underlying issue which amounts to a finding that the hearing request was submitted timely. DHS has a right to a reconsideration or rehearing if it is still contended that the issue was improperly decided.

Concerning the issue of the timeliness of Claimant's verifications. It was not disputed that Claimant's AHR timely submitted required verifications, but did so to the improper DHS office. DHS regulations do not appear to specifically address whether a submission to one DHS office satisfies a request from a separate office. DHS regulations allow hearing requests to be submitted anywhere within DHS requests (see BAM 600), but there is no comparable policy concerning verifications.

For MA benefits, clients are given 10 calendar days to provide requested verification. *Id.* at 5. If the client cannot provide the verification despite a reasonable effort, the time limit can be extended up to three times. *Id.* at 6. DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.* at 5.

There is no reason to believe that the AHR document submission to a DHS office separate from the one making the verification request was anything other than an innocent mistake. There was certainly no refusal to submit the documents. Mistakes are an inevitable part of everyone's day and the undersigned is hesitant to read a lack of reasonable effort based on an innocent mistake. The AHR's efforts were reasonable. Accordingly, DHS should not have sent a negative action notice and the denial of Claimant's application was improper.

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 improperly

- closed Claimant's case.
- denied Claimant's application.
- reduced Claimant's benefits.

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 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. Reinstate Claimant's application dated 8/4/09;
2. Initiate processing of the application in accordance with DHS regulations.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 15, 2011

Date Mailed: September 15, 2011

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

CG/hw

cc:

