

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011 45753
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: November 2, 2011
County: Oakland County DHS (04)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on November 2, 2011, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] (the Claimant's AHR) and [REDACTED], appeared as a witness. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES.

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 June 25, 2010..

4. On 5/1/10, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.

5. On 6/26/10, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

6. On August 30, 2010, 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 AACR 400.5001-5015.

Additionally, the question to be addressed concerns whether the Claimant's attorney received the verification checklist dated 6/15/11. Exhibit 1. The Claimant's AHR and attorney testified, under oath, that he did not receive the verification checklist in question. The Department, during the hearing, provided testimony that the verification was sent automatically by the Bridges system. After the hearing record had closed, the Department's representative at the hearing double checked how the verification was sent out and advised counsel for Claimant and this Administrative Law Judge that the verification checklist was mailed directly by the caseworker. The information supplied post hearing was confirmed by the Department records system indicating that the letter was sent "local print". The original caseworker assigned to this matter no longer works for the Department and did not appear at the hearing.

While the Claimant's attorney indicated that he did not have problems with his mail generally, he indicated that a second verification checklist for a medical assistance application he filed on the same date as the Claimant's also was not received by his office. He further advised the Department in writing, as soon as he received the Notice of Case Action denying the application, that he never received the verification checklist. Claimant Exhibit 1. After finally receiving a copy of the verification checklist he requested be sent to him, he credibly testified that he filed the request information immediately.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The verification form was correctly addressed and the mailing of the verification by hand rather than through the Bridges system is not in any way prohibited, however, it does add an additional possibility of human error. The case file was not available, nor was the actual caseworker who mailed the letter, and thus her practices when producing computer generated correspondence and hand mailing letters could not be reviewed. Under these circumstance based on the entire record and the testimony of the witnesses it is found that the verification checklist was not received by the Claimant's representative.

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. The Department shall initiate reinstatement of the Claimant's May 6, 2011 application.
2. The Department shall reprocess the application to determine the Claimant's eligibility for medical assistance.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: November 8, 2011

Date Mailed: November 8, 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. (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.

2011-45753/LMF

Request must be submitted through the local DHS office or directly to MAHS by mail to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

