

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

IN THE MATTER OF:



Reg. No.: 201148932
Issue No.: [REDACTED]
Case No.: 3008
Hearing Date: September 15, 2011
County: Wayne DHS (49)

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 15, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Manager, and Mandarin Macpherson, 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 checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input 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 4/29/11.

4. On 5/2/11, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.

5. On 5/2/11, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

6. On 8/9/11, 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 AACS 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 AACS 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 AACS 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.

Additionally, in the present case, Claimant, or someone on behalf of Claimant, reported a new mailing address to DHS. Claimant denied this but conceded that his sister would make changes to his case on his behalf. It is

DHS subsequently mailed letters to the new address but the letters were returned by the United States Postal Service (USPS) as undeliverable. The returned mail prompted DHS to send a Verification Checklist to Claimant to request clarification of Claimant's new address. The Verification Checklist was returned as undeliverable. DHS subsequently terminated Claimant's FAP benefits effective 6/2011 as a result of the failure by Claimant to respond to the Verification Checklist that he did not receive.

Residence and address are required to be verified for FAP benefits. BEM 220 at 5. Thus, it is found that DHS properly attempted to verify Claimant's address by sending a Verification Checklist to Claimant.

For FAP benefits, DHS is to send a negative action notice when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 at 5. DHS interpreted the returned mail as evidence that Claimant was not living at the address that he last reported to DHS. DHS contended that a negative action notice was appropriately mailed by virtue of Claimant's failure to update his address with DHS.

Theoretically, the alleged failure to update an address could amount to a lack of reasonable effort on the part of Claimant to report information. However, it does not seem plausible that Claimant refused to or failed to make a reasonable effort to verify information when Claimant could not have known of the obligation to do so. It was not disputed that Claimant never knew of the Verification Checklist because it was returned by the USPS. The end result is that DHS will always have difficulty in terminating benefits due to a failure to verify information when the Verification Checklist was returned in the mail.

DHS presumed that the USPS would only have returned mail to DHS if Claimant was not residing at his most recently reported address. In the present circumstances, an equally reasonable scenario would be that the center at which Claimant was living failed to accept mail on behalf of Claimant. For the aforementioned reasons, it is found that Claimant neither refused nor failed to make a reasonable effort to verify his address. Accordingly, the DHS termination of FAP benefits 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 FAP benefits back to 6/2011 (the month of FAP benefit termination); and
2. supplement Claimant for any benefits not received as a result of the improper termination.



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

Date Signed: September 20, 2011

Date Mailed: September 20, 2011

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 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:

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- 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:

