

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201151146
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: September 29, 2011
County: Oakland DHS (03)

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 29, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Manager.

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 4/28/11.

4. On 5/6/11, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefitsfor failure to submit verification in a timely manner.
5. On 5/6/11, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.
6. On 5/25/11, 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 1999 AC, Rule 400.3101 through Rule 400.3131. 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 1999 AC, Rule 400.3001 through Rule 400.3015.

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 2000 AACCS, Rule 400.3151 through Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, 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.

In the present case, it was not disputed that DHS requested verification concerning Claimant's checking account balance, that DHS mailed Claimant a Verification Checklist with a due date of 4/28/11 and that Claimant failed to return checking account information to DHS by the 4/28/11 due date. It was also not disputed that Claimant did not return the checking account information to DHS until 5/9/11. Very often, a client failure to return all requested documents by a due date is sufficient to establish a lack of reasonable effort justifying the sending of a negative action notice (i.e. denying the application). The present case involves two fact-specific reasons why Claimant may have demonstrated reasonable efforts despite not meeting the DHS deadline.

It is known that DHS requested 11 different verifications and the checking account was the only one that Claimant did not return. Thus, it was not disputed that Claimant complied with 10 of 11 verification requests by Claimant. Turning in 10 out of 11 requested verifications is significant effort by Claimant, one that could easily construed to be reasonable effort.

Claimant testified that her DHS specialist specifically advised her not to return the verification until her mortgage was paid so that Claimant's bank account balance would fall below the asset limit for MA. The processing specialist was not available to testify so Claimant's testimony was unrefuted. Unrefuted testimony is not necessarily credible testimony, though Claimant's testimony tended to be more credible than not. It was established that Claimant and her specialist had some conversations concerning the verifications prior to the due date. Even if the specialist did not specifically advise Claimant to wait on returning checking account information, it would have been appropriate for the specialist to advise Claimant that the verification was missing. The client must obtain required verification, but DHS must assist if they need and request help. BAM 130 at 3. Interpreting this policy liberally would have required the specialist to minimally inform Claimant that there was a need to return one additional verification prior to denying the application and informing Claimant of the right to request an extension.

One other consideration was factored. It would have been appropriate for DHS to inform Claimant of her right to reapply for MA benefits immediately after Claimant was denied

MA benefits in 5/2011. Had DHS advised Claimant of the right to reapply in 5/2011, Claimant could have still been eligible for MA benefits from 2/2011. Though it is not known with certainty whether DHS failed to inform Claimant of this information, it is likely that Claimant would have submitted a new application rather than a hearing request in 5/2011 had she known that she might still be eligible for MA benefits from 2/2011. This tends to support the finding that DHS was negligent in the eligibility process, not Claimant.

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

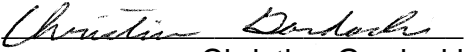
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

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:

DHS shall re-evaluate Claimant's Retroactive Medicaid Application concerning Claimant's eligibility for MA benefits for 2/2011 and 3/2011 based on previously submitted documents.


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

Date Signed: October 4, 2011

Date Mailed: October 4, 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 receipt 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.

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:

