

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-26528
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: March 21, 2012
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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, an in-person hearing was held on March 21, 2012, from Detroit, Michigan. Participants on behalf of claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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 submitted a change report to the Department on November 9, 2011, showing that one member had left the group and one member had been added to the group.

3. Claimant was required to submit a DHS-1046, Semi-Annual Contact, to continue FAP benefits.
4. Claimant was required to submit requested verification by December 31, 2011.
5. On December 1, 2011, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefits
6. On December 31, 2011, the Department
 - denied Claimant's application
 - closed Claimant's case
 - reduced Claimant's benefits.
7. On December 19, 2011, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.
8. On January 17, 2012, Claimant filed a hearing request, protesting the
 - denial. closure. reduction of Claimant's FAP benefits.

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 AACS R 400.5001-5015.

Additionally, the Department has considered claimant's contention that a change was reported on September 21, 2011, and finds the contention without merit. The Department presented the same change report, undated by claimant, with a Department stamp showing it was received at the Department on November 9, 2011. The date on claimant's form could have been added at any time and, therefore, the Administrative Law Judge holds that the Department's stamped copy is the more reliable copy. Therefore, no change could have taken place before November 9.

However, the Department's contention that there could be no addition of a group member to the case is not supported by policy. There is no policy, contrary to Department assertion, that prohibits the addition of a group member in the final month of certification. Claimant submitted evidence of an additional group member in November; policy contained in BEM 212 holds that the next benefit month is to be affected by this addition. Claimant's case did not close until December 31 and claimant received benefits for December. Therefore, claimant's December benefits should have been affected.

This is further evidenced by the fact that the case notice reasons show that the group member was not added for the reason of failure to provide evidence of primary caretaker. By the Department's own testimony, no evidence of primary caretaker was requested. If there is a dispute regarding primary caretaker, the Department must allow the principal group member to submit evidence supporting their position as primary caretaker.

Furthermore, the Department requested the group member's SSN on November 30, informally. This shows that the Department had no particular reservations regarding the caretaker situation, and there was no reason the group member could not be added; the Department erred when it refused to do so.

Finally, with regard to the case closure, there was no evidence presented by claimant that the DHS-1046 was submitted to the Department. Therefore, the Department was correct when it closed claimant's case on December 31, 2011.

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 closed claimant's case, but improperly reduced claimant's benefits for the month of December, 2011.

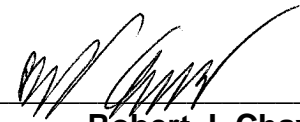
DECISION AND ORDER

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 IN PART, and REVERSED IN PART 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. Recalculate claimant's FAP benefits for the month of December 2011, allowing for the addition of the group member claimant reported in November 2011.
2. Issue any supplemental benefits to which claimant is otherwise entitled.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 26, 2012

Date Mailed: March 26, 2012

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.

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

RJC/pf

cc: 