

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-36324
Issue No.: 2006, 3022
Case No.: [REDACTED]
Hearing Date: April 4, 2012
County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Sterling Heights, Michigan on Wednesday, April 4, 2012. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. Participating on behalf of Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly terminated the Claimant's food assistance ("FAP") benefits effective February 1, 2012?

Whether the Department properly terminated the Claimant's medical assistance ("MA") benefits effective March 1, 2012?

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. The Claimant was an ongoing FAP recipient.
2. The Claimant, her spouse, and her children, were ongoing MA recipients under the Group 2 Caretaker Relatives and the Healthy Kids programs.
3. On November 28, 2011, the Department received the Claimant's Healthy Kids review application. (Exhibit 1)
4. On the Healthy Kids application, the Claimant provided that both parents were working. (Exhibit 1)

5. On December 1, 2011, the Department sent the Claimant her semi-annual review packet for her FAP benefits which was due January 1, 2012. (Exhibit 3)
6. As a result of the reported income on the Healthy Kids application, the Department sent a Verification Checklist to the Claimant on December 9th, specifically requesting, in part, the last 30 days of check stubs or earning statements in order to determine the correct FAP allotment, to be submitted by December 19, 2011. (Exhibit 2)
7. The Claimant failed to submit the requested verifications.
8. On January 20, 2012, the Department received the Claimant's semi-annual review packet for the FAP case along with earning statements for the month of December 2011. (Exhibits 3 – 16)
9. On February 1, 2012, the Claimant's FAP benefits were terminated.
10. On this same date, February 1st, the Department sent a Verification Checklist to the Claimant specifically requesting paystubs for the month of January, to be submitted by February 13th in order to determine ongoing MA eligibility under the Group 2 Caretaker Relatives program. (Exhibit 17)
11. On February 13th, the Claimant's representative contacted the Department and requested an extension on the February 1st Verification Checklist.
12. The extension was not granted.
13. On February 14, 2012, the Claimant's representative reportedly faxed over paystubs from January 12th through February 9th. (Claimant Exhibit A)
14. The Department did not receive the paystubs that were reportedly faxed over.
15. On February 16th, the Department sent a Notice of Case Action to the Claimant informing her that the MA benefits under the Group 2 Caretaker Relatives program for her and her spouse would terminate effective March 1, 2011 based on the failure to submit the requested verifications. (Exhibit 18)
16. On February 23, 2012, the Department received Claimant's written request for hearing along with paystubs from December 7th through December 28, 2011.

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 Mich Admin Code, Rules 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996.

The Food Assistance Program (“FAP”), formerly known as the Food Stamp 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. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 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. 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 Mich Admin Code, Rules 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 Mich Admin Code, Rules 400.5001 through Rule 400.5015.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. BAM 130. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verification(s). BAM 130. For MA purposes, if the client cannot provide the verification despite a reasonable effort, the due date is extended up to three times. BAM 130. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130.

A negative action is a Department action to deny an application or to reduce, suspend, or terminate a benefit. BAM 220. Timely notice is required and must detail the action taken by the Department, the reason for the action, the specific manual item which cites the legal base for an action or the regulation/law itself, an explanation of the right to

request a hearing, and the conditions under which benefits are continued if a hearing is requested. BAM 220.

In this case, the Claimant requested a hearing regarding the closure of her FAP and MA benefits. Each program will be addressed separately.

FAP Closure

For FAP cases assigned a 12-month benefit period, Bridges sends out a DHS-1046, Semi-Annual Contact Report which must be completed by the client, the client's authorized representative, or by the specialist (during a telephone call, home call, or interview with the client). BAM 210. A Report is considered complete when all the sections are completed and the required verifications are returned. BAM 210. If the client fails to return a completed DHS-1046 by the last day of the sixth month, Bridges will automatically close the case. BAM 210. If the DHS-1046 is not logged in by the 10th day of the sixth month, a DHS-1046A (Potential Food Assistance Closure) is generated which serves to remind the client that the DHS-1046 and all required verifications must be submitted by the last day of the month or the case will close. BAM 210.

In this case, the Department received the Claimant's Healthy Kids review application concerning her children's MA benefits. In the application, the Claimant noted that both she and her spouse were employed. As a result, on December 9, 2011, the Department sent a Verification Checklist to the Claimant, requesting in part, the last 30 days of check stubs which were necessary to determine the Claimant's correct monthly food allotment. The information was not received; however, the Claimant's case was not pended for closure and, thus, no Notice of Case Action was generated. Instead, because the Claimant's food case was in the process of the semi-annual review, no negative action was taken.

On December 1, 2011, the Department sent the DHS-1046 (Semi Annual Contact Report) to the Claimant requesting the proof of changes be submitted by January 1, 2012, otherwise the FAP benefits would terminate effective January 31st. Pursuant to BEM 210, on January 10th, the DHS-1046A should have been sent to the Claimant informing her that her FAP benefits would terminate at the end of the month unless the Semi-Annual Contact Report along with all requested verifications were submitted by the last day of the month. On January 20th, the Department received the DHS-1046 and 30 days of paystubs for the month of December as well as the other requested verifications. Despite this, the Department determined that the review was not complete stating that the Claimant had not complied with the December 9th Verification Checklist which requested the paystubs from November. This resulted in the FAP benefits being closed without notification.

Regarding the semi-annual review, the Claimant did submit the requested verifications and as such, the FAP benefits should have continued based on having complied with the semi-annual review. Pursuant to BAM 220, the Department, in relying on the failure

to submit the requested verifications from the December 9th request, was required to send a Notice of Case Action. This was not done. Instead, the Department determined that the semi-annual review was not complete (despite the fact that the Claimant complied with the review process) based on the failure to submit the requested verifications from the December 9th Verification Checklist. This was a separate issue from the FAP review and as such, cannot be the basis for concluding the FAP review was not completed which ultimately resulted in the Claimant's FAP benefits being terminated without notice. In light of the foregoing, the Department's actions regarding the Claimant's FAP closure is not upheld.

MA Closure

On February 1, 2012, the Department sent a Verification Checklist to the Claimant requesting, in part, 30 days of paystubs in order to determine continuing MA eligibility under the Group 2 Caretaker Relatives program. Specifically, the Department sought paystubs from January 1, 2012 through January 31, 2012. The verifications were not received by the February 13th due date; however, an extension was requested. The extension was not granted resulting in the February 16th Notice of Case Action which informed the Claimant that the MA benefits for her and her spouse would terminate effective March 1, 2012 based on the failure to submit the requested verifications.

On February 23, 2012, paystubs from January 12th through February 9th were reportedly faxed to the Department. The fax was not received and the Claimant's MA benefits were terminated effective March 1, 2012. During this time, multiple communications were sent to the Claimant due to the Health Kids review, the FAP eligibility based on reported income on the Health Kids application, the semi-annual FAP review, and the Group 2 Caretaker Relatives continued eligibility determination. The record shows that the Claimant did submit several verifications in attempts to comply with the Department's requests. There was no evidence that the Claimant refused to cooperate or was not making a reasonable effort to provide the requested information. Additionally, during the hearing, the Department acknowledged that the timely extension request regarding the February 1st Verification Checklist should have been granted. In light of the foregoing, the Department's termination of MA benefits is not upheld.

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 FAP and MA 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 above.

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 processing of the FAP Semi-Annual Review from the date of closure in accordance with department policy.
2. The Department shall notify the Claimant and her Authorized Hearing Representative of the determination in accordance with department policy.
3. The Department shall supplement for lost FAP benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.
4. The Department shall initiate processing of the Group 2 Caretaker Relatives redetermination in accordance with department policy.
5. The Department shall notify the Claimant and her Authorized Hearing Representative of the determination in accordance with department policy.
6. The Department shall supplement for lost MA benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka

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

Date Signed: April 10, 2012

Date Mailed: April 10, 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 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

CMM/cl

cc:

