

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

IN THE MATTER OF:



Reg. No.: 2012-39369
Issue No.: 2024
Case No.: [REDACTED]
Hearing Date: July 25, 2012
County: Oakland (63-03)

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, a in-person hearing was held on July 25, 2012, from Walled Lake, 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 meet eligibility requirements with regard to group size, 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's authorized representative was never sent a verification checklist; however, claimant was contacted directly with a request for information.

3. On February 24, 2012, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits .
4. On February 24, 2012, the Department sent notice of the
 denial of Claimant's application.
 closure of Claimant's case.
 reduction of Claimant's benefits.
5. On March 9, 2012, Claimant filed a hearing request, protesting the
 denial of claimant's application.
 closure of Claimant's case.
 reduction of Claimant's 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 AACRS R 400.5001-5015.

There is no dispute in the current matter that the authorized representative (AR) in the current case was the legitimate AR, and that the Department was aware that the AR was, in fact, the AR.

In the current case, the Department noticed that even though Claimant had alleged on his application that he was living in the same household as some of his family members, these family members already had a separate case in which Claimant was not listed a group member. The Department proceeded to contact Claimant, without notifying the AR, and asked him directly whether he was living with his family members. Claimant answered in the negative and the Department proceeded to deny the application in question for failing to meet group eligibility requirements.

Claimant's representative argued that the AR clause in BAM 110 requires that all communications go through the AR, effectively prohibiting the Department from contacting Claimant without the AR's knowledge.

The Department argued that there is no such right in policy, and that the Department can attempt to resolve discrepancies in the manner of which it sees fit.

The Administrative Law Judge declines to rule on the question, and instead proceeds to decide this case on far narrower grounds.

The Department contacted Claimant on February 24, 2012. Claimant was asked about his living situation on that exact date, and answered that he was not currently living with his family. However, Claimant's application covered MA service retroactive through December 2011, and the Department representative did not ask about Claimant's living situation at that time. It is conceivable, though admittedly unlikely, that Claimant was living with his family at that time, and was not living with his family at the current time.

Therefore, the Department failed to fully resolve the discrepancy before denying the application, and failed to give Claimant or his AR the opportunity to resolve the discrepancy before denying the application, as is allowed by BAM 230.

Thus, the Administrative Law Judge rules that the case was denied prematurely, and Claimant and his AR must be given a chance to resolve the discrepancy.

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. Reprocess the MA application in question, and send Claimant and Claimant's AR a verification checklist to resolve any eligibility discrepancies.



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

Date Signed: August 2, 2012

Date Mailed: August 2, 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

2012-39369/RJC

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:

