

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-46008
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: July 19, 2012
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 on July 19, 2012, at Pontiac, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative, [REDACTED]. Claimant did not appear. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On November 22, 2011, the Department
 denied Claimant's application closed Claimant's case
due to a determination that Claimant failed to submit requested medical
documentation of his impairments.
3. On November 22, 2011, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On April 6, 2012, Claimant's Authorized Hearing Representative filed a hearing
request, protesting the
 denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, 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, BEM 600, "Hearings," sets forth a ninety-day deadline for customers to file a hearing request. In this case, the Notice of Case Action is dated November 22, 2011, and the Hearing Request is dated April 6, 2012, more than ninety days after the Notice was sent. BEM 600, p. 4. Claimant asserts that the Authorized Representative was not notified of the denial.

The evidence of record does not reflect that the November 22, 2011, Notice of Case Action was mailed to the Authorized Representative. The Notice of Case Action that is in evidence is addressed to Claimant.

BAM 110, "Application Filing and Processing," states that an Authorized Representative "assumes all the responsibilities of the client." BAM 110, p. 7 (citation omitted). Advomas is Claimant's Authorized Representative and, therefore, has status that is equivalent to an attorney for the Claimant. Given the importance of the Authorized Representative, it is found and determined that it was the Department's responsibility to communicate case actions to the Authorized Representative. In this case, the Department's failure to do so caused the untimely Hearing Request and, accordingly, good cause is found to permit the hearing request to be honored as if it were filed in a timely fashion. BAM 110, pp. 7-8.

Considering next whether Claimant's hearing request should be denied or granted, the evidence of record indicates that Claimant's Authorized Representative requested more medical forms. Department Exhibit 1, p. 12. However, the evidence does not establish whether "medical forms" were ever sent to Claimant's representative. There is a signed, handwritten note at the bottom of the page indicating that the Department sent the Authorized Representative a Medical Determination Verification Checklist, but not that more "medical forms" were also sent.

There is also a handwritten note on p. 12 stating, "11/16/11 extended." This statement appears to mean that, on that date, an extension was granted. However, this note is not signed, and a new deadline for producing medical records is not stated.

It should also be noted that Claimant and his Authorized Representative have fully cooperated with the Department in processing the application. BAM 105, "Rights and Responsibilities," requires full cooperation from the customer, and it also requires the Department to protect customer rights. Based on the evidence presented in this case, as there has been full cooperation, it is found and determined that the Department failed to protect Claimant's right to apply for MA benefits. The Department shall be reversed.

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

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 AMP FIP FAP MA SDA CDC 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 application for MA benefits.
2. Initiate procedures to accept additional medical records and process Claimant's application.
3. Initiate procedures to provide supplemental retroactive and ongoing benefits to Claimant at the level to which he is entitled.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 23, 2012

Date Mailed: July 23, 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

JL/pf

cc:

