

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201276622
Issue No: 3015, 6019
Case No: [REDACTED]
Hearing Date: October 17, 2012
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 October 17, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly reduce the Claimant's benefits for the Food Assistance Program (FAP) and close the Claimant's Child and Developmental Care (CDC) case?

FINDINGS OF FACT

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. Claimant applied for benefits for: received benefits for:
Family Independence Program (FIP). Adult Medical Assistance (AMP).
Food Assistance Program (FAP). State Disability Assistance (SDA) Medical
Assistance (MA). Child Development and Care (CDC).
2. On August 24, 2012, the Department sent the Claimant a notice of case action. The notice indicated that on September 8, 2012, the Claimant's CDC case was closing and that on October 1, 2012 the Claimant's FAP benefits were being decreased.
3. On September 4, 2012, the Claimant requested a hearing to dispute the August 24, 2012 notice of case action.

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 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, R 400.3001 through Rule 400.3015.

The 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, R 400.5001 through Rule 400.5015.

In this case, the Department was unable to explain or show how the Claimant's budget was determined and what calculations were made in determining the Claimant's eligibility for FAP and CDC benefits. Where a party fails to produce evidence, it may be presumed that the evidence would work against that party. *Reetz v Kinsman Marine Transit Co*, 416 Mich 97, 109 n 24; 330 NW2d 638 (1982); *Johnson v Secretary of State*, 406 Mich 420, 440 ; 280 NW2d 9 (1979). Because I was unable to review the calculations used in determining the Claimant's eligibility, I am reversing the Department in this matter.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, I have concluded the Department improperly reduced Claimant's benefits for FAP and improperly closed the Claimant's CDC case.

DECISION AND ORDER

I find based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did not act properly.

Accordingly, the Department's FAP and CDC decision is **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. Initiate a redetermination as to the Claimant's eligibility for FAP benefits beginning October 1, 2012 and issue retroactive benefits if otherwise eligible and qualified.
2. Initiate a redetermination as to the Claimant's eligibility for CDC benefits beginning September 8, 2012 and issue retroactive benefits if otherwise eligible and qualified.

/s/

Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: October 17, 2012

Date Mailed: October 18, 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

CAA/las

cc

