

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-76639
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 31, 2012
County: Wayne (18)

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 telephone hearing was held on October 31, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Worker.

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 checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input 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 checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On October 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to a determination that he failed to verify savings and checking account, and
rent, information.
3. On August 29, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On September 10, 2012, Claimant 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 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.

Additionally, the following findings of fact and conclusions of law are made in this case. At the time of the events that are under consideration in this case, Claimant was a recipient of FAP benefits.

On July 24, 2012, Claimant applied for cash assistance. On August 7, 2012, the Department sent Claimant a Verification Checklist requesting checking account, savings account and rent information.

On or about August 10, 2012, the Department advised Claimant he was denied cash assistance. At that point, Claimant failed to return the Verification checklist with the requested information. At the hearing Claimant admitted he was confused and did not understand that the information was required in order for his FAP assistance to continue.

On August 29, 2012, the Department issued a Notice of Case Action closing Claimant's FAP benefits based on his failure to return the verification. On September 10, 2012, Claimant requested a hearing. As a part of his hearing request he asked that his FAP benefits continue pending the administrative hearing. Dept. Exh. 1, p. 1a.

The Department failed to continue Claimant's FAP benefits pending the hearing. Claimant's FAP benefits closed on October 1, 2012, as the Department stated on the Notice of Case Action. *Id.*, p. 5.

Having reviewed the testimony and the evidence of record as a whole, it is found and determined that two errors occurred, one by the Department and one by Claimant. The Claimant failed to understand that verification was needed for his FAP benefits to continue, and, the Department terminated Claimant's benefits October 1, 2012, when Claimant's benefits should have been continued pending the administrative hearing.

Having reviewed the facts of this case, it is found and determined that Bridges Administrative Manual (BAM) 105 is the applicable Item in this case. BAM 105 requires DHS to administer its programs in a responsible manner to protect clients' rights. Department of Human Services Bridges Administrative Manual (BAM) 105 (2012), pp. 1, 5.

At the outset of BAM 105 it states:

RIGHTS AND RESPONSIBILITIES

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights. BAM 105, p. 1 (bold print in original).

I read this opening section of BAM 105 to mean that the agency must fulfill these duties, and the agency is subject to judicial review of its fulfillment of these duties. If it is found that DHS failed in any duty to the client, it has committed error.

In addition I read BAM 105 to mean that as long as the client is cooperating, the agency can and should be flexible in its requests for verification. On page 5 it states:

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See Refusal to Cooperate Penalties in this section....Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. *Id.*, p. 5.

Having identified the relevant legal authority for my decision, an analysis of how the law applies to the facts of the case at hand is presented herein. The Department asserts that Claimant failed to provide it with necessary information in ten days and he is therefore ineligible. The information in dispute consists of current bank statements and rent verification.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that Claimant fully cooperated with the Department in this case, albeit that he made an error, and the Department should protect his right to benefits. DHS acted incorrectly and is REVERSED. DHS is ORDERED to reinstate and reopen Claimant's FAP benefits, accept the bank statements and rent information, and provide Claimant with any retroactive benefits to which he is entitled, in accordance with DHS policy and procedure.

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.

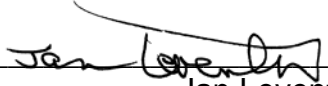
DECISION AND ORDER

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 FAP case.
2. Initiate procedures to allow Claimant sufficient time to produce checking and savings account, and rent information, in order for the Department to review his eligibility and allotment level.
3. Initiate procedures to provide Claimant with retroactive and ongoing FAP benefits at the benefit 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: October 31, 2012

Date Mailed: November 1, 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/tm

cc:

