

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201216430
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: March 14, 2012
County: Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 March 14, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Claimant's spouse. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Due to a failure to comply with the verification requirements, 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)? | |

Due to a failure to comply with the verification requirements, and complete the FAP redetermination 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 checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input 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 was required to submit requested verification by November 7, 2011.
3. A subsequent verification request dated November 1, 2011 was sent to Claimant that requested verification by an unspecified date.
4. On November 30, 2011, the Department
 denied Claimant's application for MA.
 closed Claimant's case
 reduced Claimant's benefits.
5. On December 2, 2011, the Department sent notice of the
 denial of Claimant's application for MA.
 closure of Claimant's case.
 reduction of Claimant's benefits.
6. Claimant applied for was receiving: FIP FAP MA SDA CDC
7. On November 30, 2011, the Department
 denied Claimant's application
 closed Claimant's case for FAP.
 reduced Claimant's benefits.
8. On December 2, 2011, the Department sent notice of the
 denial of Claimant's application.
 closure of Claimant's case for FAP.
 reduction of Claimant's benefits.
9. On December 2, 2011, Claimant filed a hearing request, protesting the
 denial of her Medical Assistance application and closure of her Food Assistance case. reduction of Claimant's FAP 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 AACRS 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 AACRS 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 AACRS 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.

In the instant case, Claimant submitted an application for MA on October 26, 2011. On this application, the Claimant also hand wrote in reference to FAP. On October 28, 2011 a Verification Checklist (DHS-3503) was sent to the Claimant expressly referencing the Food Assistance Program which Claimant had been receiving ongoing, and for which a redetermination appointment had been set for November 1, 2011. The Verification Checklist indicated proofs were due by November 7, 2011. However, the form also states that the Claimant "must get the proofs to me or call me by the due date above. If you do not, your benefits may be denied, decreased or cancelled." Further, the letter states that "We may be able to help you get the proofs if you ask for help." The Verification Checklist then identifies the specific information sought which was Veterans Compensation income information. Exhibit 2.

The testimony confirms that the Claimant participated in an interview with the Department on November 1, 2011. Claimant completed and signed the DHS-1010 providing financial details. The form was signed and witnessed by Department representative on that same date. A second Verification Checklist (DHS-3503) was sent to Claimant dated November 1, 2011, the same date as the redetermination appointment. This Verification Checklist references both Medical Assistance and Food

Assistance programs. The due date on this form is identified as January 11, 2011. On the reverse side of the form is typed communication stating " Per our conversation, during your redetermination, I must have a copy of the listed documents to determine eligibility for food assistance". Thus, this form was clearly generated after the redetermination appointment, but before the November 7, 2011 due date relating to the first Verification Checklist. Further, there is no opportunity for the Claimant to identify the due date on the second checklist because it reads January 11, 2011 which would seem to be a typographical error.

It was reasonable for the claimant to believe that submitting the documentation on November 8, 2011 was timely in light of the confusing and conflicting information on the two Verification Checklists that were sent. The second verification request superseded the first verification request and therefore the verification provided by Claimant is timely. While Claimant submitted the information requested one day past the due date identified on the first Verification Checklist, she was in ongoing conversations with the Department and had telephone contact, in fact in person contact at the redetermination appointment prior to the due date. Pursuant to the written information on the first Verification Checklist, the Claimant was compliant, having called "by the due date". This point, however, becomes moot with the introduction of the second superseding verification checklist.

The VA benefit confirmation information the Claimant submitted was dated September 2, 2010. ██████████ testified that the Department attempted to obtain the required updated information from the VA, was unsuccessful as the information would only be released to ██████████. There is no further information about whether ██████████ then communicated this to the Claimant and/or her husband, and whether the Department made any attempts to work in conjunction with the Claimant and her husband to obtain this information.

BAM 130 expressly provides:

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it.

The Claimant in this case has not refused to provide the verification and in fact did make reasonable effort to provide it, having maintained contact with the Department, participating in an in-person appointment during which the information was discussed and one day after the initial due date, submitted the requested information only to be advised it was too old since it related to 2010 income amounts.

BAM 130 also provides:

The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining

the verification. If the contact requires the client's signed release, use the DHS-27, Release of Information, and specify on it what information is requested.

In the instant case, the Department representative, [REDACTED], testified that she could not get the information from the VA because [REDACTED] would need to obtain the information as the recipient of the benefits. However there is no testimony that [REDACTED] had [REDACTED] sign the release needed to authorize the Department to obtain the benefits as required in BAM 130.

The Department references BEM 500 and 530 in its Hearing Summary as policy relied upon in taking the action contested by the Claimant. In fact, the relevant policy provision applicable to the facts of this case is BAM 130, and the Department failed to comply.

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. The Department shall initiate reinstatement of Claimant's MA application dated October 26, 2011 and process the application.
2. The Department shall engage in all reasonable means to assist Claimant in obtaining the required income verification from the Department of Veterans Affairs.
3. The Department shall recalculate Claimant's FAP benefits based upon the income information received as referenced above pursuant to the redetermination.

4. The Department shall supplement the Claimant for any lost FAP benefits due pursuant to policy.


Michael J. Bennane
by Kathleen H. Svoboda
Supervising Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 22, 2012

Date Mailed: March 22, 2012

NOTICE:

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

MJB/KHS/cl

cc:

