

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-16915
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 23, 2012
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Warren, Michigan on Thursday, February 23, 2012. The Claimant appeared, along with [REDACTED] and testified. Participating on behalf of Department of Human Services ("Department") was [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 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. The Claimant was a FAP recipient.
2. Due to a change in policy, the Department sent a Verification Checklist to the Claimant requesting asset information be submitted by November 7, 2011.
3. On November 8th, after not having received the verification, the Department suspended the FAP benefits to close effective November 30, 2011.

4. The Claimant timely requested a hearing.
5. On November 21, 2011, the Claimant submitted verification regarding two checking accounts.
6. The Claimant denied knowledge of an open savings account from 2009.
7. On November 23, 2011, at a prehearing conference, the Claimant withdrew her hearing request based on representation that her FAP benefits would not close because the requested verifications were submitted.
8. The Claimant's FAP benefits terminated effective November 30, 2011.
9. On December 2, 2011, the Claimant requested a hearing regarding the FAP closure.

CONCLUSIONS OF LAW

As a preliminary matter, the hearing packet consisted of a Verification Checklist relating to a State Emergency Relief application and was not applicable to the issue of the FAP closure. As a result, this decision is based on the testimony provided during the hearing.

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 Mich Admin Code, Rules 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996.

The Food Assistance Program ("FAP"), formerly known as the Food Stamp 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. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 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, 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 Mich Admin Code, Rules 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 Mich Admin Code, Rules 400.5001 through Rule 400.5015.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130. The client must obtain the required verification; however, the Department must assist if needed and/or requested. BAM 105; BAM 130. If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. BAM 130. If no evidence is available, the Department should use its best judgment. BAM 130.

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. BAM 130. The Department has the responsibility of telling the client what verification is required, how to obtain it, and the due date. BAM 130. For FAP benefits, a negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130. Prior to the negative action date, if the client meets the requirement(s) that caused the negative action, benefits are reactivated. BAM 220

Effective October 1, 2011, verification of assets is required in determining FAP eligibility.

As noted, assets must be considered when determining FAP eligibility. As a result, the Department sent a verification checklist to the Claimant requesting verification of a savings and two checking accounts. The verifications were due November 7th. On November 8, 2011, after the verifications were not received, the Department sent a Notice of Case Action to the Claimant informing her that her FAP would terminate effective November 30th based on the failure to submit the requested asset information.

In response to the negative action, the Claimant timely requested a hearing. On November 21, 2011, the Claimant submitted verification of her active checking accounts but informed the Department that she did not have a savings account. On November 23, 2011, the Claimant participated in a pre-hearing conference which resulted in the Claimant submitting a withdrawal. The withdrawal was signed based on the belief that pursuant to policy, BAM 220, because required verifications were provided prior to the negative action date, the Claimant's FAP benefits would not terminate.

Subsequent to the pre-hearing conference, the Department contacted the Claimant stating they needed proof that the savings account was closed. The Claimant, and her witness, testified credibly that she was not informed which bank (from 2009) that the Department's records indicated there was an account. In an attempt to comply, the witness took the Claimant to various banks trying to ascertain where the account was, without success. Pursuant to BAM 130, the Department had the responsibility of telling the Claimant, based on her case file, of where the savings account was. This was not timely done and the FAP benefits were terminated. Ultimately, prior to the closure, based on the best available information, the Claimant had two checking accounts and no savings account. Despite this information, eligibility was not determined and the FAP benefits were terminated. Under these facts, the Department's actions are not upheld.

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 reinstate the Claimant's FAP benefits from the date of closure in accordance with department policy.

2. The Department shall supplement for lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2012

Date Mailed: February 27, 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 receipt 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

CMM/cl

cc:

