

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-42718
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: April 30, 2012
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 30, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. 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 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 requested to add a group member to the case.
3. Claimant was required to submit requested verification of the new group member by February 21, 2012.

4. On March 16, 2012, the Department
 - denied Claimant's application.
 - closed Claimant's case.
 - reduced Claimant's benefits .

5. On March 16, 2012, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

6. On March 19, 2012, Claimant filed a hearing request, protesting the
 - denial of claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's 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 AACS 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 AACS 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 AACS 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 AACS R 400.5001-5015.

Claimant testified during the hearing that no evidence of custody of the child in question was provided to the Department until at least March 20, five days after the deadline given by the Department. Therefore, as Claimant provided no evidence of custody and, given that the child in question was already receiving benefits on another case, Claimant failed to provide evidence of custody as required by BEM 212. As Claimant failed to provide evidence of custody, the Department was correct to not allow Claimant to add the child in question to the FAP case.

However, this finding does not prohibit Claimant from providing this evidence at a later time; should Claimant present reasonable evidence of custody, per BEM 212, Claimant's child can be added to the FAP group.

This finding does not mean the Department was completely correct. In response to Claimant failing to provide evidence of custody of the child in question, the Department closed Claimant's existing FAP case. No part of policy can be read to allow such an action. There was no dispute over Claimant's own FAP eligibility; the only eligibility in question was that of the child's. If the Department decided that there was no proof of an additional group member, the proper response was not to close the entire case for the existing, verified, group members.

While the Department made unsubstantiated allegations of "fraud" at the hearing, it became apparent through testimony that the "fraud" in question was whether or not Claimant's child was in Claimant's custody. As Claimant was not, and had not, been receiving FAP benefits for the child, there could not possibly have been fraud, and the Department's own fraud report noted that the allegations were completely unsubstantiated.

The Department should be wary to throw such allegations around without some sort of evidence, and a claimant merely requesting a member to be added to a group is not, in any way, shape, or means, "fraud." If this member had been receiving FAP benefits and was later found to not be a member of the group in question, the word "fraud" could be used. At this point in time, the more proper word is "request," as in "request for a group member to be added."

Regardless, the Department had no justification to close Claimant's case; merely failing to return verifications is not cause, and never has been cause, for closing a case, if the verifications in question have no basis with regards to the claimant's own personal FAP eligibility. BAM 130 only allows verification requests to determine eligibility. The eligibility in question was whether the child in question was a group member. There

was no question as to Claimant's own personal eligibility for FAP. The proper action was to merely deny the request to add a group member, as no evidence had been provided that the group member was in the group.

Therefore, the Department was not justified in closing Claimant's case in response to failing to provide verification of an additional group member, and must 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 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. Reopen Claimant's FAP case retroactive to the date of negative action, and issue any supplemental benefits to which Claimant is otherwise entitled.



Robert J. Chavez

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

Date Signed: May 10, 2012

Date Mailed: May 10, 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

RJC/pf

cc:

