

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-48901
Issue No.: 4003
Case No.: [REDACTED]
Hearing Date: August 27, 2012
County: Wayne (82-18)

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 August 27, 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 checked="" type="checkbox"/> State Disability Assistance (SDA)? |
| <input 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 December 16, 2012.

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

4. On December 16, 2011, the Department sent notice of the
 - denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

5. On April 20, 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 AACRS R 400.5001-5015.

The Department argued that Claimant's hearing request was over the 90-day time limit for requesting hearings, as per BAM 600. While the Administrative Law Judge notes that Claimant's request for hearing was indeed more than 90 days after the date of negative action, the time limit for requesting a hearing had not yet begun to run.

It should first be noted that the Department did not submit a notice of negative action into the case record and, therefore, has failed to meet its burden of proof in showing that Claimant had been notified. However, the Administrative Law Judge did accept the Department testimony that notice of case action was in the file.

That being said, Claimant alleged that he never received a notice of case action, and first found out about the denial when inquiring with the MRS program as to when he would receive SDA benefits.

Department records show that Claimant's case changed districts no less than 4 times in a 30-day period; one of these changes took place less than 24 hours after the first change, and would have occurred around the time the alleged negative action notice would have been sent. The district in possession of the case at the time of the negative action notice had very little to do with Claimant's case at the time of the action, and may not have known to send a negative action notice. Given the complexity and confusion within Claimant's case, the Administrative Law Judge finds Claimant credible when Claimant alleged he did not receive the action notice, and rules that the evidence shows that Claimant did not receive the notice in question.

As Claimant did not receive the case action notice, the time limit for requesting a hearing could not begin to toll, and Claimant's request for hearing was still timely.

With regard to Claimant's failure to return verification, the evidence shows that no verification request form was sent out with regards to the SDA program. The only verification request in the evidence record, dated December 6, 2011, is quite specifically for the FAP program. FAP was not at issue in this hearing. While the notice reasons show that SDA was denied for failing to return information, the evidence shows that the only request for information was in regard to the FAP program.

Furthermore, the Department alleged that the information that was not returned was with regard to Claimant's MRS status. Even if the undersigned accepted the verification request in the file as valid, this checklist does not request information with regard to the MRS program, or any similar information. Therefore, the undersigned cannot hold that Claimant refused or failed to return verifications, when said verifications were not requested for the SDA program.

Therefore, as there has been no evidence presented that Claimant received or was sent a verification request with regard to the SDA program, the Department was incorrect when it denied Claimant's case for failing to submit verifications for the SDA program.

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.

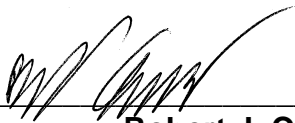
DECISION AND ORDER

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. Initiate reprocessing of Claimant's November 30, 2011, SDA application.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 5, 2012

Date Mailed: September 5, 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.

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:

