

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

IN THE MATTER OF:



Reg. No.: 2012-62331
Issue No.: 3008
Case No.:
Hearing Date: August 1, 2012
County: Wayne (82-19)

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 1, 2012, from Detroit, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included .

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 was required to submit requested verification by June 4, 2012.

3. On June 1, 2012, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits .
4. On June 8, 2012, the Department sent notice of the
 denial of Claimant's application.
 closure of Claimant's case.
 reduction of Claimant's benefits.
5. On June 28, 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.

There are three separate issues in any case regarding an alleged failure to return verifications; any error in any of these issues is a cause to hold the Department improperly closed the case in question. First, whether the Department had a right to request verifications; second, whether the Department sent a request for verification, and; third, whether the verification request was reasonably complied with. The evidence in the current case shows that the Department fails in the first two categories.

With regard to whether the Department had a right to request verifications, the evidence shows that the verifications were requested in response to an email from a case reviewer. On May 22, 2012, the Department was sent a request from a TANF reviewer to secure two consecutive paystubs from Claimant to “assist the case in meeting the federal work requirement.” At the time of the request, there were no questions of Claimant’s FAP eligibility, nor were there indications that Claimant’s income had increased or decreased.

BAM 105 states:

Clients must cooperate with the local office in determining initial and ongoing eligibility.

BAM 130 states:

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/ redetermination **and** for a reported change affecting eligibility or benefit level.

BEM 501 states regarding earned income, which was the type of verification requested:

Verify non-excluded earned income at **all** of the following:

- Application, including a program add, prior to authorizing benefits.
- At member add, only the income of the member being added.
- Redetermination.
- When program policy requires a change be budgeted.

There was no question as to Claimant's eligibility for benefits, and the Department did not believe that an eligibility factor was unclear, inconsistent, or contradictory. This was not an application or redetermination, and Claimant had not reported a change. There was no member add in progress, and no FAP program policy was requiring a change to be budgeted.

The only reason verification was requested was to "assist the case in meeting the federal work requirement," something that may have been beneficial to Department numbers, but in no way had any affect on the claimant's eligibility factors. There is no place in policy that allows for a request for verifications; at most, while the Department can request it, there is no requirement that the claimant cooperate, and the claimant cannot be penalized for failing to respond to a request not allowed by policy. The claimant is not required to respond to every request for verification; the Department's request must first be supported by policy. This request was not supported by policy and, therefore, the Department fails the first issue and must be reversed.

While BAM 105 does mention that a Department client must cooperate with a quality control (QC) audit, there is no evidence that a QC audit was being conducted in this matter, and regardless, it's the QC auditor who requests the verifications, not the Department. Therefore, the undersigned does not believe this part of BAM 105 applies to the current situation and cannot be used to hold Claimant as noncooperative with verification requirements.

With regard to whether the Department sent a request for verifications, the Administrative Law Judge admits that BAM 130 does state that no verification checklist is required when a due date is specified on a verification form. However, BAM 130 also specifically states that the Department is to "tell the client what verification is required." In the current case, paystubs, a DHS-38, or other income verifications could have satisfied the need of the TANF reviewer. Claimant was allegedly sent a single DHS-38 form, with no explanation. Claimant was not told "what verification was required." She was allegedly given a single form (which would satisfy the alleged requirement, admittedly), but was not told about the many other possibilities that would satisfy the

alleged requirement. Most claimants cannot be expected to know the myriad intricacies of policy. They cannot be expected to know that, while a DHS-38 can satisfy income requirements, other documents, which can be more informative, can also satisfy those requirements. BAM 130 remedies this by requiring the Department to inform the claimant as to the needed verification. While sending a single form is partially informing the claimant, failing to inform the claimant of other ways to satisfy the requirement cannot be said to be fully informing the claimant and is a violation of policy.

This is, of course, assuming that the Department sent the form to Claimant in the first place. However, there is no evidence in the current case to make this assumption. The DHS-38 form merely says "McDonalds" in the address space. There is no evidence that this form was mailed to Claimant, no properly addressed envelope, and no form with Claimant's mailing address. While it is possible that Claimant was mailed the form, it is just as likely that "McDonalds" was mailed the form (or more likely, the form ended up in the dead letter file without a proper address). If this form was sent by Bridges and Central Print, as the Department stated at hearing, the form would have required a legitimate mailing address in the address form. There is no address there and, thus, a very likely chance that Claimant was not sent the form. Claimant also testified that she never received the form, and the Administrative Law Judge finds this credible in light of the complete lack of evidence that a form was sent out.

Thus, because there is no support in policy for requiring the requested verifications, because policy dictates that the Department must tell the claimant which verifications are required, and the Department failed to do so, and no evidence was submitted that the Department sent the verification form in question, the Department was in error in closing the case.

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. Remove the negative action in the case at hand and reinstate Claimant's FAP benefits retroactive to the date of negative action.



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

Date Signed: August 2, 2012

Date Mailed: August 2, 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:

