

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312081
Issue No.: 1005
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Wayne DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 25, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED], testified on behalf of Claimant and appeared as Claimant's translator and authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to a failure by Claimant to verify residence.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP benefit recipient.
2. On 9/17/12, DHS mailed Claimant a Verification Checklist (VCL) requesting verification of Claimant's residency.
3. The VCL noted that a utility bill was an acceptable verification of residency.
4. On 11/1/12, Claimant returned to DHS a utility bill which was not in Claimant's name.

5. On 11/1/12, DHS initiated termination of Claimant's FIP benefit eligibility, effective 12/2012, due to an alleged failure by Claimant to verify residency.
6. On 11/7/12, Claimant requested a hearing to dispute the FIP benefit termination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The present case concerns a FIP benefit termination due to an alleged failure by Claimant to verify residency. For all programs, DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), pp. 2-3. DHS must give clients at least ten days to submit verifications. *Id.*, p. 3 DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. For FIP benefits, DHS is to 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. (*Id.*, p. 5.)

DHS mailed Claimant a VCL (Exhibit 1) to verify Claimant's residency. The VCL noted that a utility bill was an acceptable form of verification. A utility bill is also noted by DHS policy as an acceptable verification of residency (see BEM 220 (1/2012), p. 6). It was not disputed that Claimant a utility bill to DHS. DHS contended that the utility bill had to be in Claimant's name to be an acceptable form of residence verification.

It is possible that a client could misrepresent their own residency by mailing someone else's utility bill to DHS. Thus, the DHS contention that Claimant failed to verify residency has some merit. However, the DHS contention is ultimately unpersuasive for either of two reasons.

First, DHS regulations state that a "utility bill" is an acceptable form of residence verification. If DHS only considered a utility bill in a client's name to be acceptable verification, DHS policy should explicitly state such a requirement.

Secondly, the VCL sent by DHS noted that returning a "utility bill" would satisfy the verification request. It cannot be reasonably argued that Claimant failed to comply with a verification request when she returned exactly what DHS requested.

DHS half-heartedly contended that Claimant's verification was untimely even if it was deemed acceptable. Ultimately, DHS presented testimony conceding that Claimant's submission was timely.


Based on the presented evidence, it is found that Claimant timely complied with the DHS request for residency. Accordingly, the FIP benefit termination was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefit eligibility, effective 12/2012, subject to the finding that Claimant timely verified residency by submission of a utility bill; and
- (2) supplement Claimant for any FAP benefits not issued as a result of the DHS error.

The actions taken by DHS are REVERSED.


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

Date Signed: 5/8/2013

Date Mailed: 5/8/2013

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

CG/hw

cc:

