

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201318579
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED] Claimant's friend and neighbor. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case for failure to verify requested information?

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 recipient of FAP benefits.
2. In connection with a fraud complaint, the Department conducted a FEE investigation and concluded that Claimant had unreported self-employment income.
3. On November 27, 2012, the Department sent Claimant a Verification Checklist requesting verification of earned income and Self-Employment Income and Expense Statements (DHS-431) for September 2012, October 2012 and November 2012.

4. On December 4, 2012, Claimant submitted completed DHS-431s, indicating he did not have any business or income. He also submitted a handwritten note that his only source of income was the income deposited into his bank account, that he did not own any certified self-employment company, and any "outsourcing" he did was for a non-profit church, providing a name and number of a contact for the church based in [REDACTED].
5. The Department contacted the church contact who confirmed that Claimant was associated with the ministry, that he taught karate lessons for free as a way to evangelize the church's beliefs and values, and that he was aware that Claimant owned a heating and cooling business but was unaware of the revenue produced by the venture.
6. On December 8, 2012, the Department sent Claimant a Notice of Case Action notifying him that his FAP case would close effective January 1, 2013, for failure to verify requested verification.
7. On December 17, 2012, Claimant filed a request for hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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, R 400.3101 through R 400.3131. 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 Mich Admin Code, R 400.3001 through R 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 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, R 400.5001 through R 400.5015.

Additionally, the Department closed Claimant's FAP case effective January 1, 2013, because it concluded that, based on its investigation and Claimant's verifications, Claimant had unreported income from self-employment. At the hearing, the Department testified that Claimant taught karate and provided heating and cooling services. In support of its conclusion, the Department pointed to Claimant's Facebook pages where Claimant referenced teaching karate and an Angie's List listing showing a post for [REDACTED]. At the hearing, Claimant credibly testified that he taught karate as part of the ministry with which he was associated. The Department's telephone contact with the individual who headed the ministry supported Claimant's testimony. Claimant also credibly testified that he provided heating and cooling services at cost to low-income families, and, while he accepted donations to his church made by customers, he remitted any such donations to the church. He explained that the Angie's List post was created for his son's benefit, but the venture had never materialized. The Department presented no credible evidence to counter Claimant's testimony that he had no income from self-employment activities. Claimant's testimony at the hearing was consistent with the verifications he provided to the Department in response to the VCL it sent him.

The facts in this case show that Claimant provided all requested verifications and the Department failed to establish that Claimant had unreported self-employment income. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to provide requested verifications.

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

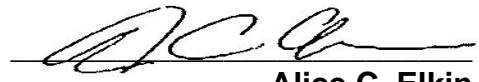
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did not act properly when it closed Claimant's FAP case.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case as of January 1, 2013; and
2. Begin issuing supplements to Claimant for any FAP benefits he was eligible to receive but did not from January 1, 2013, ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 31, 2013

Date Mailed: January 31, 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

ACE/hw

cc:

