

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-23225
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, February 14, 2013. The Claimant appeared, along with [REDACTED] (daughter), and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly terminated MA and FAP benefits effective January 1, 2013 based on the failure to complete the redetermination process?

FINDINGS OF FACT

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

1. The Claimant was an ongoing MA and FAP recipient.
2. On December 11, 2012, the Department sent a Verification Checklist to the Claimant requesting the verifications be submitted by December 21, 2012. (Exhibit 1)
3. The Claimant denied receipt of the Verification Checklist.
4. On December 13th, the Department received an email on behalf of the Claimant stating that the Department failed to contact the Claimant on December 3rd, the date of the scheduled phone interview for the redetermination. (Exhibit 5)

5. The Department responded to the email seeking verifications of the Claimant's and her spouse's pension. (Exhibit 5)
6. On December 27, 2012, the Department received a letter from the Claimant advising the Department that a redetermination letter was never received. (Exhibit 2)
7. Along with the letter, the Claimant submitted verification regarding her and the spouse's pensions. (Exhibit 2)
8. On December 28, 2012, the Department sent a Notice of Case Action to the Claimant informing her that her MA benefits would terminate effective February 1, 2013 and that the FAP benefits would close effective January 1, 2013 based on the failure to allow the Department to verify necessary information. (Exhibit 4).
9. On January 8, 2013, the Department received the Claimant's timely written request for hearing. (Exhibit 6)

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("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, Rules 400.3101 through 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 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, Rules 400.3001 through 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, Rules 400.3151 through 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, Rules 400.5001 through 400.5015.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 (November 2012), p. 5. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. BAM 130 (May 2012), p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verification(s). BAM 130, p. 5. For FAP purposes, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210 (November 2012), p. 2. If the client misses the redetermination interview, a Notice of Missed Interview is sent to the Claimant. BAM 210, p. 3. For FAP purposes, telephone interviews are permissive at redetermination; however, an in-person interview is permitted if the client requests one. BEM 210, p. 3.

In this case, the Department testified that a redetermination packet was sent to the Claimant on December 11th. Supporting documentation consisted of a Verification Checklist which requested verification of the Claimant’s checking account; verification of age; and verification of the pension information to be submitted by December 21, 2012. The Claimant’s daughter testified credibly that this checklist was not received. The Claimant, through her daughter, was in continual communication with the Department regarding the Claimant’s MA and FAP redetermination, noting that there were no changes in the Claimant’s information.

The more likely scenario is that a redetermination packet was mailed out in November 2012 with a scheduled interview for December 3rd. In an email dated December 13, 2012, the Claimant’s daughter expressed concern that the phone interview was not completed as scheduled on December 3rd, despite the fact the redetermination information was timely returned. The email further explained that a Notice of Missed Interview was received by the Claimant even though the Claimant and her daughter (who took time off of work) waited for the Department’s call which never came. In response to the Notice of Missed Interview, an in-person appointment was requested but denied. It should be noted that the Claimant’s original case worker was out of the office so his cases were processed by a different staff member.

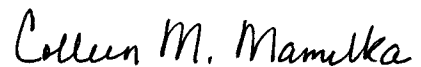
The Department responded to the December 13th email requesting that the pension information be submitted. On December 27th, the Department received the requested pension information; however, the following day, the Department sent a Notice of Case Action, informing the Claimant that her FAP benefits would terminate effective January 1, 2013 and the MA benefits would close effective February 1, 2013, based on the failure to verify necessary information. As discussed on the record and as detailed above, the Claimant/daughter continually complied with the Department's requests. There was no evidence of a refusal to provide the information and, instead, the evidence shows ongoing communication with the Department in the form of telephone calls, emails, letters, and facsimiles. Further, prior to the closure, an appointment was requested to go over the Claimant's case which was denied. The Claimant/daughter requested assistance in accordance with BAM 130 which was not provided. Ultimately, in light of the foregoing, it is found that the Department's termination of FAP and MA benefits is not upheld.

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's termination of FAP and MA benefits is not upheld.

Accordingly, it is ORDERED:

1. The Department's termination of FAP and MA benefits is REVERSED.
2. The Department shall reinstate FAP benefits and initiate supplementation of FAP benefits effective January 1, 2013 in accordance with department policy.
3. The Department shall reinstate the Claimant's MA benefits effective February 1, 2013 and supplement for lost benefits in accordance with Department policy.
4. The Department shall initiate and subsequently complete the MA and FAP redetermination (if not previously done so) in accordance with department policy and notify the Claimant of the determination in accordance with department policy.



Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2013

Date Mailed: February 20, 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

CMM/tm

cc:

