

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-28078
Issue Nos.: 2001; 3008
Case No.: [REDACTED]
Hearing Date: March 13, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on March 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input checked="" type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Direct Support Services (DSS)? | |

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 AMP SDA CDC.
2. On December 11, 2012, the Department sent Claimant a redetermination form (DHS-1010). Exhibit 1.

3. On January 19, 2013, the Department sent a Notice of Case Action (Exhibit 2), advising Claimant that his AMP benefits were scheduled to terminate effective February 1, 2013, based on the failure to complete the redetermination process.
4. On February 1, 2013, the Department closed Claimant's FAP and AMP cases due to failure to submit a redetermination form.
5. On February 1, 2013, Claimant filed a hearing request, protesting the denial of the application. closure of the cases.

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 1999 AC, Rule 400.3101 through Rule 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 1999 AC, Rule 400.3001 through Rule 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 (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 (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 400.3151 through Rule 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, at the hearing, Claimant indicated that he was concerned about the Department's closure of his FAP and AMP cases effective February 1, 2013.

The Department closed Claimant's FAP and AMP cases effective February 1, 2013, because Claimant had failed to return a redetermination form. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210 (November 2012), p. 1. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p 2. For AMP benefits, the Department sends a case action notice when the client's required time period to return verification has elapsed. BAM 130 (May 2012), pp. 5-6.

In this case, the Department sent Claimant a redetermination form in connection with his continued eligibility for his FAP and AMP benefits. The redetermination was due on January 2, 2013, and a telephone interview was scheduled on January 2, 2013. The Department testified that it did not receive a redetermination prior to January 31, 2013, resulting in the closure of FAP and AMP benefits effective February 1, 2013.

Claimant contended that he did not submit the redetermination form because he did not receive it in the mail. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant testified that he had difficulties receiving mail at his residence. Claimant testified that he did receive the Notice of Case Action (Exhibit 2) dated January 19, 2013. However, Claimant testified that he does not receive all of his Department documents and that this has been an ongoing problem concerning his mail delivery. Moreover, Claimant testified that he contacted his Department case worker several times and left messages stating that he has mailing issues.

Claimant presented no documentary verification of his testimony. Nevertheless, there was credible testimony by Claimant. Claimant credibly testified that he does have ongoing mail issues at his residence. Additionally, the Department was unable to rebut Claimant's testimony that he left messages for his Department case worker. Claimant was assigned a different case worker at the time of the redetermination and that case worker was not present at the hearing to rebut whether Claimant left messages.

Overall, Claimant's testimony that he did not receive the redetermination form was credible and sufficiently verified. Accordingly, the FAP and AMP benefits termination is found to be improper.

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA.

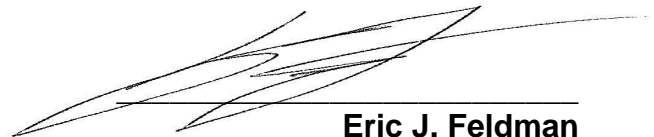
DECISION AND ORDER

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 above and 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. Reinstate Claimant's FAP and AMP cases as of February 1, 2013;
2. Provide Claimant AMP coverage he is eligible to receive from February 1, 2013, ongoing;
3. Initiate reprocessing Claimant's FAP and AMP redetermination in accordance with Department policy, including requesting any redetermination form (DHS-1010);
4. Initiate issuing supplements to Claimant for any FAP benefits he was eligible to receive but did not from February 1, 2013, ongoing; and
5. Notify Claimant in writing of its decision in accordance with Department policy.



Eric J. Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2013

Date Mailed: March 19, 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 affect the substantial rights of the claimant:
 - 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

EJF/pf

cc:

