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

#### IN THE MATTER OF:



Reg. No.:
Issue No.:
Case No.:
Hearing Date:
County:

2013-49217 2006

June 26, 2013 Kent County DHS

## ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

## **HEARING DECISION**

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on J une 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Participants on behalf of Department of Human Services (Department) included

#### **ISSUE**

Due to a failure to comply with the ve rification requirements, did the Department properly and deny Claimant's application close Claimant's case reduce Claimant's benefits for:

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Family Independence Program (FIP)? Food Assistance Program (FAP)?

Medical Assistance (MA)?

State Disability Assistance (SDA)?
Child Development and Care (CDC)?

## FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantia I evidence on the whole record, including testimony of witnesses, finds as material fact:

- 1. On January 22, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FAP b enefits were closing effective March 1, 2013.
- 2. As of March 22, 2013, the Claimant was receiving MA benefits.
- 3. On March 22, 2013, the Depart ment received the Claimant's MA redetermination paperwork.

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- 4. On April 23, 2013, the Depa rtment sent the Claimant a verification of employment form. The form was due May 3, 2013.
- 5. As of May 3, 2013, the form had not been returned to the Department.
- 6. On May 7, 2013, the form was logged into DHS's system.
- 7. On May 8, 2013, the form was logged into the caseworkers system.
- 8. On May 8, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's MA cas e was c losing as the verification of employment was not returned by the due date.
- 9. On May 23, 2013, the Claimant requested a hearing regarding the FAP and MA closures.
- 10. At no point in time between April 23, 2013 and May 3, 2013 did the Claimant request from the Department assistance or additional time in.

## CONCLUSIONS OF LAW

Department policies are contained in the Br idges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The MA program is established by the Titl e XIX of the Social Security Act and is implemented by T itle 42 of t he Code of F ederal Regulations (CFR). The Department (formerly known as the Fa mily Independence Agenc y) admin isters the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michig an are found in the Mic higan Administrative Code, 199 9 AC, R 400.901 through Rule 400 .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing bec ause a claim for assistance is denied or is not acted upon with reasonable prom ptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, d iscontinuance, or termination of assistance. Rule 400.903(1). A request for hearing shall be in wr iting and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1).

The Bridges Administrative Manual (BAM) 600, p. 4, provides in relevant part as follows:

The client or authorized he aring representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

Because more than 90 days elapsed between the notice of cas e action regarding the FAP case and the time the hear ing was requested, I lack the necessary authority and jurisdiction to address the issue as the Claimant's hearing request was untimely.

Additionally, clients must c ooperate with the local office in determining initial a nd ongoing eligib ility. This inc ludes completion of ne cessary forms. Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the c lient at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Testimony and other evidence must be we ighed and considered according to its reasonableness.<sup>1</sup> Moreover, the weight and credibi lity of this evidence is generally for the fact-finder to determine.<sup>2</sup> In evaluating the credibility and weight to be given t he testimony of a witnes s, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness 's testimony, and the interest, if any, the witness may have in the outcome of the matter.<sup>3</sup>

After review of the testimony and document ation provided, I find the Department's actions were appropriate given the fact the ve rifications were not returned timely and at no point in time neither assistance nor additional time was requested.

Accordingly, I find evidence to affirm the Department's action to close the MA case.

## 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 reco rd, finds that the Department did act properly.

Accordingly, the Depar tment's decision is **AFFIRMED** for the reasons stated on the record.

<sup>&</sup>lt;sup>1</sup> *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

<sup>&</sup>lt;sup>2</sup> *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

<sup>&</sup>lt;sup>3</sup> *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

Additionally, it is ORDERE D that this Requ est for Hearing portion that pertains to the FAP issue is **DISMISSED**.

fact

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: June 27, 2013

Date Mailed: June 27, 2013

**NOTICE:** Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the receipt date of this Dec ision and Orde r. MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical errors, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address ot her relevant iss ues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Recons ideration/Rehearing Request

P. O. Box 30639 Lansing, Michigan 48909-07322

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