

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

IN THE MATTER OF:



Reg. No.: 2013-23429
Issue No.: 5005
Case No.: [REDACTED]
Hearing Date: May 22, 2013
County: Van Buren

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Wednesday, May 22, 2013 from Lansing, Michigan. Participants on behalf of Claimant included the claimant's authorized representative, Janice Clark. Participants on behalf of Department of Human Services (Department) included [REDACTED], APSup and [REDACTED] ES.

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|-------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input 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 checked="" type="checkbox"/> State Emergency Relief (SER)? | |

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 applied for benefits for: received benefits for:

- | | |
|------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input 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 checked="" type="checkbox"/> State Emergency Relief (SER) | |

2. On December 4, 2012, the Department denied Claimant's SER application closed Claimant's case reduced Claimant's FAP benefits due more than 10 days since burial/cremation.
3. On December 4, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On December 26, 2012, Claimant or Claimant's A HR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

CONCLUSIONS OF LAW

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

- 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 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 1997 AACS R 400.3101-3131. 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 1997 AACS R 400.3001-3015.
- 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 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 1998-2000 AACS R 400.3151-400.3180.
- 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 1997 AACRS 400.5001-5015.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, 1999 AC, R 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, the claimant died on November 3, 2012 and was cremated. The claimant's authorized representative submitted a SER application for burial on behalf of the claimant on November 13, 2012, but did not submit an Assistance Application, DHS 1171 to St. Joseph County DHS. The claimant was not a recipient of DHS benefits so a DHS 1171 was required in order to process the SER application. ERM 103. A notice was sent in the mail to the authorized representative on November 13, 2012. The claimant's authorized representative resubmitted the SER burial application and DHS 1171 on November 26, 2012. The original SER application could not be registered to preserve the date without the DHS 1171. The proper filing was received on November 26, 2012, but that was more than 10 days after burial/cremation. As a result, the application was denied.

For some reason, the hearing summary and hearing was conducted by Van Buren County DHS office not St. Joseph County DHS office. This Administrative Law Judge finds that the department did follow policy in denying the SER application because it was submitted more than 10 days after burial/cremation, but the claimant's authorized representative should have been called and given the opportunity to timely submit a DHS 1171. A notice sent in the mail with a 10 day time limit on SER application does not give claimant's authorized representative an opportunity to timely submit a DHS 1171 so that the application could be processed. BAM 115. The claimant's authorized representative's telephone number was included in the application and should have been utilized. The department has not met its burden that it correctly processed the claimant's SER application.

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, due to excess income, the Department properly improperly

- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC SER.

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 AMP FIP FAP MA SDA CDC SER decision is AFFIRMED REVERSED for the reasons stated 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. Initiate a redetermination of the Claimant's eligibility for SER using the original application date of November 13, 2012.
2. Provide the Claimant's authorized representative with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

/s/
Carmen G. Fahie
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 28, 2013

Date Mailed: May 28, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

CGF/hj

cc:

