

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201352386
Issue No.: 6015; 2006; 3002; 5000; 1000
Case No.: [REDACTED]
Hearing Date: July 11, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 July 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Family Independence Manager (FIM) [REDACTED].

ISSUE

Did the Department properly reduce the Claimant's monthly Food Assistance Program (FAP) allotment; properly deny the Claimant's Child Development and Care (CDC) application; properly close the Claimant's Medical Assistance (MA) case and properly determine the Claimant's co-payment for 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. The Claimant was approved for SER benefits with a co-pay on January 11, 2013.
2. The Claimant applied for CDC benefits.
3. On March 12, 2013, the Department sent the Claimant a DHS-4025, CDC Provider Verification form with a due date of March 22, 2013.
4. On March 12, 2013, the Claimant's FIP income was added to her FAP budget and the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her monthly FAP allotment was reduced from \$ [REDACTED] to \$ [REDACTED].

5. On April 12, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her application for CDC was denied because the DHS-4025, CDC Provider Verification form was not returned.
6. On April 15, 2013, the Department sent the Claimant a DHS-1010, Redetermination form with a due date of May 1, 2013.
7. On May 17, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that her MA case was closed due to her failure to return the DHS-1010, Redetermination form.
8. On June 5, 2013, the Department received the Claimant's written hearing requests protesting the Department's determinations regarding her FIP, MA, SER, FAP and CDC cases.

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 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 2000 AACS, 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.

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).

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, 1999 AC, R 400.901 through Rule 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). A request for hearing shall be in writing 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 hearing 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.

In the present case, on January 11, 2013, the Department approved the Claimant's application for SER benefits with a co-pay. On June 5, 2013, the Claimant filed a request for a hearing concerning the Department's action. Furthermore, the Claimant testified that she understood the Department's SER decision to be proper and correct. Because the Claimant's request for hearing was not within ninety days of the disputed action taken by the Department, this request for hearing must be dismissed for lack of jurisdiction.

Also, the uncontested testimony at the hearing was that the Claimant's FIP benefits were never negatively affected. As such, the Administrative Law Judge concludes the Claimant's FIP case suffered no negative action and there is no jurisdiction therefore to hear

Based on the above discussion, it is ORDERED that this Request for Hearing on the SER and FIP issues are DISMISSED.

The Claimant does not contest the amounts in the FAP budget nor does the Claimant contest the propriety of having her FIP grant budgeted in the FAP grant. The only contested testimony in this case was whether or not the Claimant received the DHS-1010, Redetermination form and the DHS-4025, Child Development and Care Provider

Verification forms. The Claimant does not contest that her mailing addresses, her son's address, has remained the same at all times relevant to this matter. 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). The evidence in this case is insufficient to rebut the presumption that the Claimant received the DHS-1010, Redetermination form and the DHS-4025, Child Development and Care Provider Verification forms. This is particularly so, as the Claimant received the DHS-1605, Notice of Case Action dated May 17, 2013 and those forms were sent to the same address as the forms Claimant asserts that she did not receive.

Bridges Eligibility Manual (BEM) 503 (2013) p. 11, provides that FIP is unearned income that is to be counted for FAP purposes. The Claimant did not contest that she receives \$ [REDACTED] of FIP benefits each month, nor did she contest that such income should be counted. As such, the Administrative Law Judge concludes that when the Department reduced the Claimant's FAP allotment due to her [REDACTED] [REDACTED] it was acting in accordance with departmental policy.

Bridges Assistance Manual (BAM) 130 (2012) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Claimant had made no reasonable effort to provide the verification. As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that it was acting in accordance with policy when taking action to close the Claimant's MA case and deny the Claimant's CDC application for failure to submit the required verification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did act properly when closing the Claimant's MA case, denying the Claimant's CDC application and reducing the Claimant's FAP allotment.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/17/13

Date Mailed: 7/17/13

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

SEH/tb

cc:

