

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

IN THE MATTER OF:



Reg. No.: 201349506
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Macomb 12

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, from Lansing, Michigan. Participants on behalf of Claimant included her Authorized Representative (AR) [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case 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 checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

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 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 checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On May 15, 2013, the Department denied Claimant's application closed Claimant's case due to her failure to provide the requested bank statements.

3. On May 15, 2013, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On May 29, 2013, Claimant's AR filed a hearing request, protesting the
 denial of the application. closure of the case.

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 1999 AC, R 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, R 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 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 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, R 400.5001 through Rule 400.5015.

The testimony of the ES was that he asked the Claimant to provide a copy of each month's bank [REDACTED] dating back to January of 2012, as it could affect her eligibility for benefits. Bridges Eligibility Manual (BEM) 405 (2013) p. 2 discusses transfers of resources and provides that giving an asset away is such a transfer which may be subject to divestment. The ES testified that this is why he requested the Claimant's [REDACTED] [REDACTED] back to January 2012, because the statements she had already submitted for February and March of 2013 showed transfers of money to her [REDACTED]

The Claimant's AR argued that such a request was improper because the Claimant had at one time received full MA benefits. The Administrative Law Judge disagrees and determines that it is not only proper for the ES to verify whether or not the Claimant's financial situation subjects her to a divestment penalty, the ES is actually required to do so. The Administrative Law Judge determines that whether or not the Claimant is subject to a divestment penalty is an eligibility factor when determining eligibility and/or level of benefits. Bridges Administrative Manual (BAM) 130 (2012) p. 1 instructs workers that verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. In this case, the Claimant submitted an application for MA benefits therefore requiring verification of her financial situation. [REDACTED] [REDACTED] submitted indicate that she had been transferring funds to her [REDACTED]. The ES is required to verify if there were other such transfers for divestment purposes as BAM 130 p. 1 instructs a worker to obtain verification when an eligibility factor is unclear. In this case, it is unclear whether or not the Claimant should be subject to a divestment penalty.

The Claimant's AR never asserted that the bank statements were submitted, though the AR did state that she had no access to the Claimant's [REDACTED] [REDACTED]. The AR conceded that she never asked the Department for assistance in obtaining the [REDACTED] [REDACTED]. The Department cannot be faulted for failing to assist the Claimant if the AR does not communicate that assistance is needed.

Bridges Assistance Manual (BAM) 130 (2012) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist. The ES in this case did exactly that. 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 client indicates refusal to provide a verification, or when the time period given has elapsed and the client 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 deny the Claimant's application for MA for failure to submit the required verification.

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 CDC.

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 decision is **AFFIRMED** REVERSED.

/s/

Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 7/25/13

Date Mailed: 7/29/13

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.

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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:

