

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-36858
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: August 13, 2013
County: Macomb 36

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 August 13, 2009, from Lansing, Michigan. Participants on behalf of Claimant included Robert Call, his girlfriend [REDACTED] and his Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and Supervisor, [REDACTED].

ISSUE

Did the Department properly fail to implement a decision and order of a previous Administrative Law Judge within 10 days?

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 August 5, 2010, the Department denied Claimant's application closed Claimant's case due to the State Hearing Review Team's (SHRT) denial of eligibility based on disability.

3. On November 16, 2010, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
2. On December 8, 2011, the Social Security Administration (SSA) approved the Claimant for SSI based on disability in July 2010.
3. On June 6, 2011, Administrative Law Judge Robert Chavez issued an Amended Hearing Decision determining that the Claimant was eligible for retro MA-P for the first day of the third month prior to eligibility and ordering the Department to process the MA-P application of August 5, 2010 retroactive to the date of application and to initiate a review of all non-medical eligibility factors.
4. On March 21, 2013, the Claimant's AR filed another hearing request, protesting the Department's failure to implement the Hearing Decision issued on June 6, 2011.

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 AACRS, 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.

Additionally, Bridges Administrative Manual (BAM) 600 (2011) pp. 31, 32, provides that the Department is to implement a Decision and Order of an Administrative Law Judge within 10 calendar days of the mailing date on the hearing decision. It further provides that the Department is to implement the Decision and Order pending a court appeal unless a circuit court or other court with jurisdiction issues an Order requiring a stay.

The uncontested fact was that Administrative Law Judge [REDACTED] Decision and Order had not been implemented even still, two years after it had been issued. Supervisor [REDACTED] explained that, subsequent to Administrative Law Judge [REDACTED] decision and order, the Department had the Medical Review Team determine the Claimant's eligibility for the three retroactive months, based on disability. This occurred even though Administrative Law Judge [REDACTED] had specifically ordered that the Department review and determine the *non-medical eligibility factors*. Supervisor Sabbagh testified that he was not even aware of the decision and order and had *assumed* it had been appealed.

Ordinarily, such a hearing request would be dismissed as having already been adjudicated. However, in this instance, it is clear that the issue was adjudicated and that the Department failed to implement the Administrative Law Judge's Decision and Order. As such, and based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department *improperly* failed to implement the Decision and Order of Administrative Law Judge [REDACTED] issued on June 6, 2011.

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. did not act properly.

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

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate action to implement the decision and order of Administrative Law Judge [REDACTED] dated June 6, 2011, and
2. Initiate action to issue the Claimant any supplement he may thereafter be due.

/s/

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

Date Signed: 8/20/13

Date Mailed: 8/21/13

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.

2013-36858/SEH

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:

