

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201314150  
Issue No.: 1000, 2011, 3008  
Case No.: [REDACTED]  
Hearing Date: February 6, 2013  
County: Wayne DHS (49)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 February 6, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether Claimant is entitled to request a hearing concerning Family Independence Program (FIP) benefit eligibility prior to any adverse action by DHS.

The second issue is whether DHS processed Claimant's Medical Assistance (MA) eligibility for 11/2012, and properly did not process Claimant's eligibility for 9/2012 and 10/2012 because Claimant received medical benefits from another state.

The third issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefit eligibility due to Claimant's alleged failure to verify information.

**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 was an ongoing FAP benefit recipient.
2. On an unspecified date in 7/2012, DHS terminated Claimant's FAP benefit eligibility due to an alleged failure by Claimant to verify income.

3. On 9/20/12, Claimant reapplied for FAP benefits.
4. Claimant's application noted no ongoing employment and no employment income from the prior 30 days.
5. Claimant received FAP benefits in [REDACTED] through 9/2012.
6. Claimant received cash assistance and MA benefits from [REDACTED] for 9/2012 and 10/2012.
7. On 10/9/12, Claimant reapplied for FIP and MA benefits.
8. On an unspecified date, Claimant was given 30 days to complete a FAST.
9. On an unspecified date, DHS approved Claimant's FAP benefit eligibility for 10/2012 but suspended further benefits until Claimant verified information.
10. On 10/19/12, DHS mailed Claimant a Verification Checklist (VCL) requesting proof of Claimant's disability, current employment and stopped employment income.
11. The VCL due date was 10/29/12.
12. On an unspecified date, DHS processed Claimant's MA benefit eligibility beginning 12/2012.
13. On an unspecified date, DHS terminated Claimant's FAP benefit eligibility due to Claimant's failure to verify income and disability.
14. On 11/26/12, DHS denied Claimant's FIP benefit application due to Claimant's failure to complete a FAST.
15. On 11/20/12, Claimant requested a hearing to dispute a termination of FAP benefits and a failure by DHS to process MA benefit eligibility for Claimant from 9/2012-11/2012.

### **CONCLUSIONS OF LAW**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in

suspension, reduction, discontinuance, or termination of assistance. BAM 600 (10/2012), p. 3.

In the present case, it was not disputed that Claimant applied for FIP benefits on 10/9/12. It was not disputed that Claimant requested a hearing from DHS on 11/20/12. Claimant noted on her hearing request that a lack of FIP benefits was one of the reasons that a hearing was requested. At the time of Claimant's hearing request, DHS had not taken any actions to Claimant's FIP benefit application. DHS denied application on 11/26/12 due to Claimant's failure to complete a FAST, a required questionnaire for FIP benefit applicants.

During the hearing, the issue of whether DHS properly denied Claimant's application was considered and thought to be correct based on Claimant's failure to complete the FAST within 30 days of her application date. However, the FIP benefit denial should not even be considered because at the time of Claimant's hearing request (11/20/12), DHS had not taken any adverse actions on Claimant's FIP benefit application. It is irrelevant that DHS denied Claimant's FIP benefit application shortly after Claimant's hearing request. It should be noted that DHS has 45 days to process a FIP benefit application. BAM 115 (11/2012), p. 12; DHS was within their 45 timeframe at the time of Claimant's hearing request. Concerning the FIP application denial, Claimant's hearing request is dismissed because Claimant failed to establish any failure by DHS prior to her hearing request.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

It was not disputed that DHS approved Claimant for MA benefits effective 12/2012. Claimant contended that she was entitled to MA eligibility from 9/2012-11/2012. It is known that Claimant received MA benefits from [REDACTED] for a period of time. Claimant brought no verification as to when her [REDACTED] MA benefit eligibility ended.

Benefit duplication is prohibited except for MA and FAP in limited circumstances. BEM 222 (11/2012), p. 1. DHS is to assume an MA or AMP applicant is not receiving medical benefits from another state unless evidence suggests otherwise. *Id.*, p. 2. In the present case, DHS had evidence that suggested otherwise. Claimant's DHS specialist testified that the [REDACTED] agency responsible for MA benefits was called concerning Claimant's [REDACTED] MA benefit eligibility. The specialist testified that she was told that Claimant received MA benefits from [REDACTED] in 9/2012 and 10/2012. It is found that DHS properly did not issue MA benefits to Claimant for 9/2012-10/2012 because Claimant already received those benefits from [REDACTED].

DHS conceded that Claimant was entitled to 11/2012 MA eligibility. DHS contended that Claimant was issued such benefits based on an Eligibility Summary. DHS testified that

the Eligibility Summary verified 11/2012 MA benefit issuance because it noted “no change” in benefit eligibility. “No change” in MA benefit eligibility after a month when Claimant did not receive MA benefits is proof that benefits were not issued. Based on the presented evidence, it is found that DHS did not process Claimant’s MA benefit eligibility for 11/2012.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS is to verify income at application and at redetermination. BEM 505 (10-2010), p 11. DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5-2012), p. 3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.* at 2. For FAP benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it. (*Id.*, p. 5.)

DHS is to verify income that stopped within the 30 days prior to the application date, or while the application is pending before certifying the group. BEM 505 (10/2011), p. 11. DHS testified that Claimant’s FAP benefit eligibility ended after Claimant failed to verify disability, employment income and stopped employment income. DHS conceded that the stopped employment income was from no later than 7/2012. Based on Claimant’s application date of 9/20/12, DHS did not make a request for income from the prior 30 days of Claimant’s application. If DHS had no basis to verify the income stoppage, then DHS cannot deny Claimant’s FAP benefit eligibility for a failure to verify the stoppage. The employment income was request was also inappropriate as Claimant had no ongoing employment income.

DHS also claimed that Claimant failed to verify her claimed disability. Claimant’s alleged disability might be relevant to whether Claimant qualifies for MA benefits based on a disability or whether Claimant should be deferred from a work participation program concerning FIP benefit eligibility. Nowhere in DHS regulations is it required that a client submit medical verification of a claimed disability concerning FAP benefit eligibility.

DHS failed to establish that the verification request was necessary to Claimant’s FAP benefit eligibility. If DHS cannot establish a basis for a verification request, DHS cannot take an adverse action based on a client failure to comply with the request. Accordingly, the FAP benefit application denial was improper.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant was not entitled to request a hearing for FIP benefits because Claimant's hearing request failed to assert an adverse action regarding FIP benefit eligibility. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not process Claimant's MA benefit eligibility for 9/2012-10/2012 because Claimant received MA benefits from [REDACTED] for those months. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's MA benefit eligibility for 11/2012 and FAP benefits effective 11/2012. It is ordered that DHS:

- (1) process Claimant's MA benefit eligibility for 11/2012;
- (2) process Claimant's FAP benefit eligibility, effective 11/2012, subject to the finding that DHS had no basis to request proof of Claimant's disability, non-existent ongoing employment income and stopped employment income from more than 30 days prior to an application date; and
- (3) initiate supplement for any benefits not issued in error.

The actions taken by DHS are REVERSED.



Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 8, 2013

Date Mailed: February 8, 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. (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

CG/hw

cc:

