

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013 16064
Issue No.: 3038
Case No.: [REDACTED]
Hearing Date: April 4, 2013
County: Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on April 4, 2013, from Highland Park, Michigan. Participants on behalf of Claimant included the Claimant and [REDACTED] the Claimant's Authorized Hearing Representative, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES, and [REDACTED], FIM.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for was receiving: FIP FAP MA SDA CDC.
2. Claimant was required to submit requested verification by September 4, 2012 (Redetermination) and September 30, 2012 (Notice of Missed Interview. Exhibits 1 and 3.

3. On September 30, 2012, the Department
- denied Claimant's application.
 - closed Claimant's case, no Notice of Case Action due to FAP closure for failure to complete redetermination
 - reduced Claimant's benefits.

The Department agreed at the hearing that the Claimant had reapplied for FAP and that the application was not processed and agreed to issue a supplement to the Claimant for FAP benefits for November 2012 which benefits shall include the entire month of November and will supplement the difference between the FAP benefits received \$33.00 and the FAP benefits Claimant was entitled to receive.

4. On December 5, 2012, Claimant filed a hearing request, protesting the
- denial of Claimant's application.
 - closure of Claimant's case.
 - reduction of Claimant's benefits.

CONCLUSIONS OF LAW

Department policies are found 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 1997 AACSR 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 AACSR 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 AACSR 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 AACSR 400.5001-5015.

Additionally, at the hearing the Department presented evidence that it properly mailed and addressed a Redetermination Packet and Notice of Missed Interview. Exhibits 1-3. At the hearing the Claimant credibly testified that he did not receive the forms and that he does not have problems with receiving his mail which goes to his home where he lives with family. Based upon the Claimant's testimony it is determined that the Department properly closed Claimant's FAP case for failure to return and complete the redetermination and phone interview. It is well established law that 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). In this case it is determined that the presumption of receipt was not rebutted by the Claimant's testimony and therefore it is found the mail was received and not responded to by the Claimant.

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 improperly

closed Claimant's case.

denied Claimant's application.

reduced Claimant's benefits.

The Department further agreed to settle and resolve the FAP benefits for November 2012 as it determined that a FAP application was filed in November and agreed the Claimant should have received full FAP benefits for November 2012; thus, no decision is necessary regarding November 2012 FAP benefits.

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

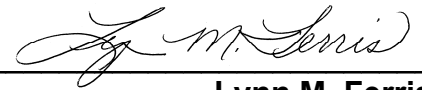
did act properly did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons that the Claimant did not respond to the redetermination causing closure of his FAP case.

The Administrative Law Judge based upon the settlement reached by the Department at the hearing orders the Department to do the following:

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

1. The Department is ordered to initiate re-registration of the Claimant's November 2012 application that was not registered and determine eligibility.
2. The Department shall issue a supplement to the Claimant for FAP benefits the Claimant was entitled to receive in November 2012 less the \$33 in FAP benefits Claimant has already received for November 2012.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2013

Date Mailed: April 11, 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 affect the substantial rights of the claimant:
 - 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

2013-16064/LMF

LMF/cl

cc:

