

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201322066
Issue No.: 3019
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County DHS: SSPC-West

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 February 6, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED].

ISSUE

Did the Department act in accordance with departmental policy when determining when issuing the Claimant Food Assistance Program (FAP) benefits 29 days after the date of his application?

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 an on-going recipient of FAP benefits in Nebraska and received FAP benefits via the state of Nebraska until his case closed there on November 30, 2012.
2. The Claimant applied for FAP in Michigan on November 13, 2012, and reported that he had FAP benefits from [REDACTED] until [REDACTED].
3. The Claimant's application was approved and he began receiving FAP benefits from Michigan DHS on December 12, 2012.

4. The Claimant is not eligible for expedited FAP benefits, due to his income.
5. On January 7, 2012, the Department received the Claimant's written hearing request. During the hearing, the Claimant clarified that he was protesting the denial of benefits from December 1, 2012, until December 12, 2012.

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.

Additionally, Bridges Assistance Manual (BAM) 115 (2013), pp 12, 13 provides, in pertinent part:

STANDARDS OF PROMPTNESS

All Programs

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information.

* * *

Process applications and requests for member adds as quickly as possible, with priority to the earliest application date; see [Processing Delays](#) in this item.

* * *

FAP Only

The expedited due date (SOP) is six calendar days after the application date. The regular FAP due date (SOP) is 29 calendar days after the application date.

FAP benefits must be **available** by the seventh day for expedited and the thirtieth day for regular FAP. Available means clients **must** have a Bridge card and access to their benefits by the seventh day for expedited and the thirtieth day for regular FAP benefits.

In this case, the ES explained that the Claimant could not receive benefits from the Michigan DHS while concurrently receiving benefits from [REDACTED]. When asked by the Administrative Law Judge why it was that the Claimant could not receive benefits from the Michigan DHS on December 1, 2012, the ES testified that the Claimant is not eligible for FAP until 30 days after he applies.

The ES testified that the Claimant must wait 30 days before receiving benefits. The Administrative Law Judge could not find any such requirement in the departmental policy. BAM 115, p. 12 clearly encourages the department to process applications as quickly as possible. However, the Department does not violate its own Standard of Promptness until it delays issuing benefits past 29 calendar days after the application date. In this case, the Claimant received benefits on the 29th day after he filed his application. Therefore, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when issuing the Claimant's FAP benefits on the 29th day after he filed his application.

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 when issuing the Claimant's FAP benefits on the 29th day after he filed his application.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is **AFFIRMED** REVERSED for the reasons stated on the record.

/s/

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

Date Signed: February 26, 2013

Date Mailed: February 26, 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.

201322066/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/kl

cc:

