

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201326400
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: February 27, 2013
County: 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 hearing was held on, from, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist, (ES) [REDACTED].

ISSUE

Did the Department properly determine the Claimant's application date for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 14, 2012, the Claimant applied for FAP.
2. On December 6, 2012, the Claimant submitted verifications which the ES determined were inadequate, as the [REDACTED] proof was not current and the Claimant was also lacking [REDACTED].
3. On December 18, 2012, the Claimant's application for FAP was denied.
4. On January 16, 2013, the Claimant provided the required verifications and her application was re-registered.
5. On January 16, 2013, the Claimant was issued FAP benefits.

6. On January 23, 2013, the Claimant requested a hearing protesting that she did not receive benefits for November and December of 2012, and the first half of January of 2013.

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 ACS, 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) 130 (2012) p. 3 instructs the Department's ES that though the Claimant must obtain required verification, the ES must assist if the Claimant needs and requests help. (BAM) 130 p. 5 provides that

. . . if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing.”

* * *

BAM 115, pp. 18, 19 provide in pertinent part:

Subsequent Processing

FAP Only

Proceed as follows when a client completes the application process **after denial** but within 60 days after the application date.

On or before the 30th day:

Re-register the application, using the **original** application date.
If the client is eligible, determine whether to prorate benefits according to initial benefits policy in this item.

Between the 31st and 60th days:

Re-register the application, using the date the client **completed** the process.
If the client is eligible, prorate benefits from the date the client complied.

The uncontested facts are that the Claimant faxed the Department verifications on December 6, 2012. What exactly was requested of the Claimant is not completely clear, as there is no DHS-3503, Verification Checklist in evidence. The Department testified that the Claimant's verification of [REDACTED] [REDACTED] from [REDACTED] was not current and therefore unacceptable. Her application was therefore denied on December 18, 2012. The uncontested testimony is that the Claimant did telephone the ES at least twice after submitting the verifications, during the week of December 12, 2012, to inquire if she needed to submit anything else. The uncontested testimony is that the ES did not return the Claimant's calls until January of 2013, after her application had been denied. The ES also testified that the Department had been having problems with its fax machine.

The Claimant's uncontested testimony was that when the ES did call her back in January and clearly stated what verification was required, she gave the Claimant four hours to produce such verification and the Claimant did produce the required verification. In this case, had the ES returned the Claimant's calls in December before she denied the Claimant's application, the Claimant could have likely submitted the required verification quickly like she did in January. Regardless, the Claimant did submit it within 30 days of the denial date. Per BAM pp. 18, 19 the application should have been re-registered back to the original application date, as opposed to the date the Claimant completed the process. As such, the evidence establishes that the Department was not acting in accordance with its policy when determining that the Claimant's application was to be re-registered using the date the Claimant completed the process as opposed to the original application date.

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 . did not act properly when determining that the Claimant's application not be re-registered to the original application date.

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

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 re-register the Claimant's application back to the original application date, and
2. Initiate action to issue the Claimant any supplements she may thereafter be due.

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

Date Signed: March 18, 2013

Date Mailed: March 20, 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

SEH/db

cc:

