

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

IN THE MATTER OF:



Reg. No.: 2013-40140
Issue No.: 2006; 3008; 6000
Case No.: [REDACTED]
Hearing Date: May 6, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 May 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES.

ISSUES

Was Claimant's hearing request regarding denial of her Child Development and Care (CDC) application made in a timely manner?

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's cases for Food Assistance Program (FAP) and 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 CDC in October of 2012.
2. The Department issued a written denial of Claimant's CDC application in October of 2012.
3. Claimant received benefits for FAP and MA.

4. Claimant was required to submit requested verification for FAP by February 1, 2013. (Exhibit 1, p.2)
5. Claimant did not submit the requested verification for FAP by February 1, 2013.
6. On February 28, 2013, the Department sent Claimant a Notice of Case, notifying Claimant of the closure of her FAP case, effective March 1, 2013, due to failing to verify necessary information. (Exhibit 1, pp. 6, 7)
7. On March 5, 2013, the Department sent Claimant a Notice of Case Action, notifying Claimant of the closure of her MA case, effective April 1, 2013, due to failing to verify necessary information. (Exhibit 1, pp. 19, 20)
8. On March 22, 2013, Claimant filed a hearing request, protesting the denial of her CDC application and the closure of her FAP and MA cases.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

CDC

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 AACS R 400.5001-5015.

In the present case, Claimant testified that she received a written notice of denial of her CDC application in October of 2012. However, Claimant did not request a hearing regarding CDC until March 22, 2013.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600, p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Claimant's hearing request was therefore not timely filed within ninety days of the Notice of Case Action, and is therefore DISMISSED for lack of jurisdiction. BAM 600, p 4.

FAP AND MA

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 AACRS R 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.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 105; BAM 130. The client should be allowed 10 calendar days to provide the verification. BAM 130. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. *Id.*

In the present case, on January 2, 2013, the Department issued a Semi-Annual Contact Report that instructed Claimant to submit proof of changes regarding loss of jobs by February 1, 2013 or her FAP case would close, effective February 28, 2013. (Exhibit 1, pp 2, 3) Claimant did not submit the proof by February 1, 2013, and had no contact with the Department until February 25, 2013, when the Department worker contacted her. Claimant testified at the hearing that she was too busy finding other jobs, so she did not have time to get papers. I do not find that Claimant made a reasonable effort to cooperate with the Department in obtaining verification. Therefore, the Department was correct in closing Claimant's FAP case due to failing to verify information.

However, the Semi-Annual Contact Report referred to above was regarding FAP only, not MA. The Department worker at the hearing stated that she did not issue a verification checklist in addition to the Semi-Annual Contact Report. Without proof from the Department that it issued a verification request to Claimant regarding MA, it cannot be concluded that the Department was correct in closing Claimant's MA case due to failure to verify requested information.

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 closed Claimant's FAP case, but improperly closed Claimant's MA case.

DECISION AND ORDER

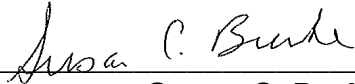
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted properly with regard to FAP and improperly with regard to MA.

Accordingly, the Department's decision is AFFIRMED in part and REVERSED in part for the reasons stated within 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 reinstatement of Claimant's MA case, effective April 1, 2013, if Claimant is otherwise eligible for MA.
2. Notify Claimant in writing regarding the status of her MA case.

It is further ORDERED that Claimant's request for hearing regarding CDC is DISMISSED for the reasons stated within the record.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 7, 2013

Date Mailed: May 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.

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:

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- 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

SCB/tm

cc:

