

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

IN THE MATTER OF:



Reg. No.: 2013-41229
Issue Nos.: 3003, 3008
Case No.: [REDACTED]
Hearing Date: May 15, 2013
County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on May 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for March 2013 ongoing?

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 FAP benefits on January 28, 2013.
2. On January 30, 2013, the Department sent Claimant a Verification Checklist (VCL) with a due date of February 11, 2013, that requested proof of bank records and shelter expenses. Exhibit 1.
3. Claimant submitted the verification documents via U.S. Certified Mail on February 8, 2013. Exhibit A.
4. Claimant's FAP benefits closed effective March 1, 2013.

5. On April 11, 2013, Claimant filed a hearing request, protesting that her FAP benefits were cut-off March 2013 ongoing. Exhibit 1.

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 AACS R 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 AACS 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.

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 AACS R 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 AACS R 400.5001-5015.

As a preliminary matter, on January 30, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that she was approved for FAP benefits effective January 28, 2013, through January 31, 2013, in the amount of \$25. Exhibit 1. The Notice of Case Action also notified Claimant that she was approved for FAP benefits for the month of February 2013 in the amount of \$200. Exhibit 1. At the hearing, Claimant testified that she is not disputing her FAP benefits for the months of January and

February 2013; however, Claimant is disputing her FAP benefits for March 2013 ongoing.

Clients must cooperate with the local Department office in obtaining verification for determining initial and ongoing eligibility. BAM 105 (November 2012), p. 5. For FAP cases, the client has 10 calendar days to provide the verification requested. BAM 130 (May 2012), p. 5. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3. For FAP cases, if 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, then policy directs that a negative action be issued. BAM 130, p. 5.

In the present case, Claimant applied for FAP benefits on January 28, 2013. On January 30, 2013, the Department sent Claimant a Verification Checklist (VCL) with a due date of February 11, 2013, that requested proof of bank records and shelter expenses. Exhibit 1. The Department testified that it did not receive the verification documents by the February 11, 2013, due date. At the hearing, Claimant testified and presented evidence that she submitted the VCL documents via U.S. Certified Mail to the Department by the due date. Specifically, Claimant presented proof of receipt that she sent the mail to a Department caseworker on February 8, 2013. Exhibit A. Claimant credibly testified that she provided the required VCL documents in that shipment. Claimant also credibly testified that she attempted to contact the caseworker multiple times regarding the VCL before its due date. Claimant testified that she was unable to leave a message for the caseworker on her voicemail. The caseworker who was addressed in the certified mail was not present at the hearing. On April 11, 2013, Claimant filed a hearing request, protesting the closure of FAP benefits for March 2013 ongoing. Exhibit 1.

Based on the foregoing information and evidence, the Department improperly terminated Claimant's FAP benefits for March 2013 ongoing. Claimant provided credible evidence that she submitted VCL documents to the caseworker on February 8, 2013. Exhibit A. The caseworker to whom the documents were addressed was not present at the hearing to rebut the testimony.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, the Administrative Law Judge concludes that the Department improperly terminated Claimant's FAP benefits effective March 1, 2013, ongoing.

Subsequent to the FAP closure, on April 18, 2013, the Department sent an additional VCL with a due date of April 29, 2013, that requested proof of bank records and shelter expenses. Exhibit 1. On April 29, 2013, the Department received bank records from Claimant; however, it did not receive proof of shelter expenses. Thus, on April 30,

2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her FAP benefits were approved in the amount of \$104 effective March 1, 2013, ongoing. Exhibit 2. The Department testified that Claimant's FAP benefits went from \$200 in February 2013 to \$104 in March 2013, ongoing, due to Claimant's failure to provide shelter expenses. As discussed above, Claimant timely provided the requested verifications in February.

In summary, Claimant timely submitted the verification documents and the Department improperly terminated Claimant's FAP benefits effective March 1, 2013, ongoing.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and 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 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. The Department shall begin recalculating the FAP budget for March 1, 2013, in accordance with Department policy, including verification of Claimant's shelter expenses;
2. The Department shall supplement Claimant for any lost FAP benefits that Claimant was eligible to receive but did not from March 1, 2013, ongoing, if otherwise eligible and qualified in accordance with Department policy; and
3. Notify Claimant in writing of its decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 29, 2013

Date Mailed: May 29, 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

EJF/pf

cc:

