

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-46308
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne (82-35)

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 telephone hearing was held on June 6, 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 close Claimant's case for the Food Assistance Program (FAP) effective May 1, 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 was an ongoing recipient of FAP benefits. Exhibit 1.
2. Claimant was required to submit requested verification by April 26, 2013. Exhibit 1.
3. The Department did not receive the requested verifications by the April 26, 2013 due date.
4. On May 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were closed effective May 1, 2013, ongoing, due to Claimant's failure to comply with the verification requirements. Exhibit 1.

5. On May 8, 2013, Claimant filed a hearing request, protesting the closure of his FAP benefits. 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.

Clients must cooperate with the local office in completing necessary forms for determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 (May 2012), p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses 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, allow the client 10 calendar days to provide the verification the Department requests. BAM 130, p. 5. Also 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 was an ongoing recipient of FAP benefits. Exhibit 1. On April 16, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting additional information about his updated earned income at redetermination. See Exhibit 1. The VCL comment section stated that Claimant claimed self-employment in his original FAP application. Exhibit 1. Claimant was required to submit the requested verification by April 26, 2013. Exhibit 1. The Department did not receive the requested verification by the April 26, 2013 due date. On May 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were closed effective May 1, 2013, ongoing, due to Claimant's failure to comply with the verification requirements. Exhibit 1.

At the hearing, the Department stated that the VCL was sent to Claimant based on the possibility that a redetermination was submitted by Claimant. The Department did not present Claimant's redetermination at the hearing. Claimant testified, though, that he never received the redetermination. Moreover, Claimant testified that he did indicate in his original FAP application that he had self-employment income. However, Claimant testified that he last received self-employment income in January or February of 2013. Nevertheless, Claimant testified that he received the VCL dated April 16, 2013. Claimant credibly testified that he contacted and left voicemails for his former caseworker at least twice (who was not present for the hearing) requesting assistance with the VCL. Claimant testified that he contacted his former caseworker because he was unsure of what verifications to provide her as the VCL did not specify any requested proofs. Claimant testified that he never received any contact back from his former caseworker.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP case effective May 1, 2013, ongoing. First, the VCL dated April 16, 2013, does not indicate which certain proofs Claimant is supposed to submit to the Department. See Exhibit 1. The VCL only states to provide updated earned income at redetermination. Exhibit 1. The VCL has to state specifically any requested proofs. Second, Claimant attempted to contact his former caseworker before the due date for assistance with the VCL. However, Claimant never received any assistance or phone call back from his former caseworker. BAM 130, p. 5. Third, the former caseworker was not present at the hearing to rebut Claimant's testimony. Thus, the Department improperly closed Claimant's FAP case effective May 1, 2013, ongoing, in accordance with Department policy.


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. Reinstate Claimant's FAP case as of May 1, 2013, ongoing;
2. Begin recalculating the FAP budget for May 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from May 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.


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

Date Signed: June 11, 2013

Date Mailed: June 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:

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- 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:

