

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-48805
Issue No.: 3008
Case No.: ██████████
Hearing Date: June 20, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

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

1. Claimant applied for benefits received benefits for:

- | | |
|--------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On March 1, 2013, the Department
 denied Claimant's application closed Claimant's case
due to a determination that she failed to submit a Semi-Annual Contact Report, DHS
Form 1046..
3. On an unknown date, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On May 14, 2013, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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 1999 AC, Rule 400.3001 through Rule 400.3015.

Additionally, the following findings of fact and conclusions of law are entered in this case.

On January 2, 2013, the Department sent Claimant a Semi-Annual Contact Report form, DHS Form 1046. The Claimant never received the January 2, 2013 form. The Department's records indicate that the form was sent. As a result, the Department terminated Claimant's FAP benefits on March 1, 2013. Dept. Exh. 1, p. 3.

On March 8, 2013, the Department issued a second Semi-Annual Contact Report form to Claimant. Claimant submitted the March 8 report to the Department. There were no changes in her circumstances other than a new address. Clmt. Exh. A.

On April 15, 2013, a Department specialist wrote in an email, "Did you ever the (sic) get the 1046 that was due in February? Her case closed and she states that she never got it." Dept. Exh. 1, p. 9.

In this case the applicable policy is Bridges Administrative Manual (BAM) 105, "Rights and Responsibilities." BAM 105 requires the Department to determine eligibility, provide benefits, and protect client rights. Department of Human Services Bridges Administrative Manual (BAM) 105 (2013).

Having considered all of the evidence in its entirety in this case, it is found and determined that the Department failed to protect Claimant's right to benefits, when it learned that she did not receive the January Semi-Annual Report, but did not provide a remedy to her. Claimant reported that she did not receive the form in April, but the Department failed to follow up with her and give her another Semi-Annual Report for the time for which she did not receive benefits.

The Department's correspondence records in this case are not reliable, because they do not show that a March 8, 2013 Semi-Annual Report was ever mailed to Claimant, while the evidence is clear that there was a March 8 Report. The Department's witness could not explain why the March Report was not shown on the correspondence record. This causes the Department's testimony to be of lesser value in this case. Dept. Exh. 1, p. 3.

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 denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

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. did not act properly.

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 INITIATE THE FOLLOWING ACTION WITHIN TEN DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP benefits, if they have not been already reinstated.
2. Provide retroactive and ongoing FAP benefits to Claimant for the period of March 1, 2013 to the present, consistent with FAP payments already made to Claimant.
3. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 20, 2013

Date Mailed: June 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 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

JL/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]