

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006849
Issue No.: 1002, 3000, 6000
Case No.: [REDACTED]
Hearing Date: August 26, 2014
County: Oakland-District 3 (Walled Lake)

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Path Coordinator [REDACTED].

ISSUE

Did the Department properly determine Claimant's eligibility for Family Independence Program (FIP), Child Development and Care (CDC), and 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. Claimant applied for FIP, FAP, and CDC on February 24, 2014.
2. On March 4, 2014, the Department mailed to Claimant a FAST Mandatory Notice (Exhibit 1 Page 7) requiring him to complete the FAST within 30 days.
3. On the same date, the Department mailed to him a Child Development and Care Provider Verification (Exhibit 1 Page 13), which was due May 14, 2014.
4. On April 11, 2014 the Department received a hearing request from Claimant on issues involving FIP.
5. On May 28, 2014, a hearing was conducted; and on June 6, 2014, [REDACTED] issued a decision (Exhibit 1 Pages 4-5) expressing a resolution the parties had reached during the hearing, and requiring the Department to reprocess Claimant's FIP application if he submitted a completed FAST survey.

6. Claimant completed the FAST on May 28, 2014, and was awarded FIP beginning May 1, 2014. (Exhibit 1 Pages 10-12.)
7. Claimant did not complete the CDC Verification.
8. On July 7, 2014, the Department received Claimant's hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Claimant's issue with respect to FIP is that he believes he should have been provided FIP benefits before May 1, 2014, even though he did not complete the FAST survey until May 28, 2014. In BAM 405 (7/1/13) p 1, policy instructs:

Supplemental benefits are issued to correct an underissuance (i.e., the group received less assistance than they were eligible to receive).

Do NOT issue supplements to correct underissuances caused by the client's failure to report.

Claimant failed to complete the FAST when it was due. The previous ALJ granted him an opportunity complete it again. Once he completed it, the Department could issue benefits (if he were otherwise eligible) but it could not issue a supplement because he had failed to report.

Although Claimant requested a hearing on FAP, he acknowledged that the negative action he wanted reviewed had occurred in a Notice of Case Action dated March 4, 2014. He did not request a hearing on that issue within 90 days.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (7/1/13), p. 5, 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.]

Because Claimant did not request a hearing on FAP within 90 days, there is no jurisdiction to hear any appeal on FAP.

With respect to CDC, Claimant did not provide the Child Development and Care Provider Verification which was due May 14, 2014. "Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

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.

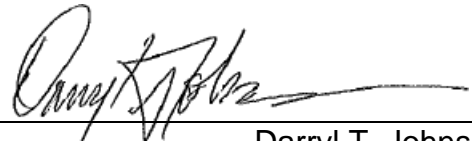
The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the forms were provided to the Claimant. The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline.

Because Claimant has not produced evidence to show that she responded timely and fully, the undersigned is persuaded that Claimant did not comply timely, and did not make a reasonable effort to comply timely.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's application for FIP benefits until Claimant completed the FAST survey. It also acted in accordance with policy when it denied Claimant's application for CDC. Claimant's request for a hearing on FAP is dismissed due to lack of jurisdiction.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/28/2014**

Date Mailed: **8/28/2014**

DTJ / jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

cc:

