

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014 14783
Issue No.: 3002,6002,2002
Case No.: ██████████
Hearing Date: December 19, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payments Supervisor, and ██████████, Assistance Payments Worker.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application for CDC close Claimant's case for Food Assistance and Medical Assistance benefits for:

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

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 received:
 FIP FAP MA AMP SDA CDC
benefits.

2. Claimant applied for received:
FIP FAP MA AMP SDA CDC
benefits.
3. Claimant was required to submit requested verification by November 4, 2013.
Exhibit 2
4. On November 13, 2013, the Department
 denied Claimant's application. CDC unknown 9/20/13 application
 closed Claimant's case. FAP (12/1/13); Closed MA (9/1/13)
 reduced Claimant's benefits.
5. On November 13, 2013, the Department sent Claimant/Claimant's Authorized
Representative (AR) notice of its action.
6. The Claimant also requested a hearing regarding the Department's finding that she
failed to cooperate with the Office of Child Support. At the hearing it was
determined that the Claimant's cooperation was determined as of October 21,
2013 and no issue remains to be determined.
5. On November 18, 2013, Claimant/Claimant's Authorized Hearing Representative
(AHR) filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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.

Additionally, In this case the Claimant credibly testified that she properly mailed the pay stubs requested by the verification checklist by mailing them from the Waterford Post Office and did so prior to the due date. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case the Claimant presented credible testimony that the verifications were sent by mail before the due date. Although the Department did not receive the verifications, it is determined that its non-receipt is not sufficient to rebut the presumption that the verifications were mailed and thus it is determined that the Department is charged with receiving the verifications and that they may have been misplaced.

Based upon these facts it is determined that the Department improperly closed the Claimant's FAP and Medical Assistance and improperly denied the Claimant's application for CDC and that the Claimant did not refuse to provide verifications or cooperate. BAM 130.

The Claimant's request for hearing regarding the non-compliance with the Office of Child Support is dismissed due to the issue being resolved and thus there is nothing left to be determined.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed the Claimant's FAP and Medical Assistance and denied the Claimant's CDC application.

DECISION AND ORDER

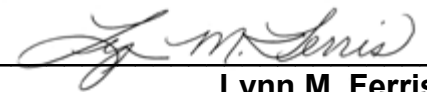
Accordingly, the Department's decision closing the Claimant's FAP and Medical Assistance and denying her CDC application is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-register the Claimant's CDC application dated September 20, 2013 and shall process the application to determine eligibility.

2. The Department shall initiate reinstatement of the Claimant's FAP and Medical Assistance retroactive to the closure date and determine ongoing eligibility and verification deemed necessary in accordance with Department Policy.
3. The Department shall issue a FAP supplement if any that the Claimant was otherwise entitled to receive in accordance with Department policy.

It is ORDERED THAT the Claimant's request for hearing dated November 18, 2013 regarding the non-compliance with the Office of Child Support is DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2013

Date Mailed: December 19, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-14783/LMF

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

LMF/cl

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