

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2011-29829
Issue No.: 3015; 3019
Case No.: [REDACTED]
Hearing Date: May 11, 2011
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, May 11, 2011. The Claimant appeared and testified. Nicole Johnson and Keniqua Bonner appeared on behalf of the Department of Human Services ("Department").

ISSUE

1. Whether the Department properly closed the Claimant's Food Assistance and Medical Assistance after he reported that he started employment.

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of Food Assistance and Medical Assistance.
2. The Claimant called the Department, on March 23, 2011, to advise his caseworker that he was going to be an employee of the [REDACTED] beginning on [REDACTED],
3. On March 23, 2011, the Department issued a notice of Case Action which closed the Claimant's FAP and MA case effective April 1, 2011. The stated reason for

the closure was that “you requested in writing that your assistance be stopped.

Exhibit 1

4. The Claimant did not request immediate closure of his case when he spoke to his caseworker by phone to advise her he had begun employment. Claimant Exhibit 1.
5. The Department did not provide any evidence of a written request by the Claimant requesting that his case be stopped.
6. The Department sent a verification checklist to the Claimant dated April 13, 2011, with a due date of April 22, 2011.
7. On April 16, 2011, the Claimant responded to the Verification Checklist and mailed the Department a letter and a copy of his first check stub, issued April 14, 2011, in response to the request for verification. Exhibit 2
8. In the comment section on the March 23, 2011 Notice of Case Action, the Claimant’s caseworker wrote “Your case has been placed into closure for the following” DHS records shows that you are a new hire at the [REDACTED].”
9. The Claimant’s supervisor advised the [REDACTED] where the Claimant was receiving assistance that the Claimant was a new hire and requested that his case specialist be advised. The Claimant’s supervisor’s letter was advisory and did not direct closure. Exhibit 3
10. At the hearing, the record was left open to allow the Department time to submit an email to further support its action. The Department could not locate the email and thus made no further submission of evidence.
11. The Claimant timely requested a hearing on 3/28/11, protesting the Department’s closure of his MA and FAP case based on his written request for case closure.

The Claimant also requested that his benefits continue during the pendency of the hearing request but the Department did not honor the Claimant's request.

CONCLUSIONS OF LAW

In the record presented, the Claimant requested a hearing regarding the closure of his FAP and MA case due to his timely reporting to the Department that he was employed.

The Food Assistance Program, formerly known as the Food Stamp 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 of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

This matter involves whether the Department properly closed the Claimant's FAP and MA case after he reported to them that he had begun work on [REDACTED]. In this instance, the testimony established that the Claimant timely advised his then caseworker, on [REDACTED], that he had begun employment with the [REDACTED] on [REDACTED]. The Claimant credibly testified that he did not request, at any time, immediate closure of his benefit case. Nor did he provide the Department with written notice to stop his benefits, in fact, he did quite the opposite when speaking with his then caseworker. The Department did not provide any testimony or written documentation from the Claimant requesting closure of his benefit case. Notwithstanding the fact that the Claimant did not request closure of his case, the Department, on its own initiative, immediately closed his case.

A FAP case may be closed with adequate notice, which is a notice like the one in this case, which is sent at the same time the action is taken, only if:

The change was reported in writing and signed by an eligible group member, **and** you can determine the new benefit level or ineligibility based **solely** on the written information. BAM 220, page 3

In this instance, the Department had no basis for immediate closure and adequate notice was not appropriate. Instead, the Department was required to pend the Claimant's case for 11 days and then initiate closure. BEM 220 provides:

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. See **Adequate Notice** and for **CDC and FAP only, Actions Not Requiring Notice** in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action.

In this case, the Department mailed the notice on March 23, 2011, and its action was effective April 1, 2011. The proper date for the Notice of Case Action to have been issued would have been at least 11 days before the intended negative action takes effect. The Notice should have been issued on April 4, 2011 and the Claimant's benefits should have been closed the following month, May 2011.

The policy basis for this provision is to allow the client a chance to react to the proposed action. Given this situation and the Department's failure to present any evidence of a written closure request by the Claimant it is determined that the Department incorrectly closed the Claimant's case and its action must be REVERSED.

It is also noted that the Claimant timely requested a hearing and his benefits should not have been terminated as he requested that his benefits continue pending the hearing outcome.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department improperly and prematurely closed the Claimant's FAP and MA case, and its determination, based on its Notice of Case Action dated March 23, 2011, is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen the Claimant's FAP and MA case and shall determine the Claimant's eligibility for benefits.
2. The Department shall issue a FAP supplement to the Claimant for FAP benefits for April 2011, and reinstate the Claimant's medical coverage for April 2011.



Lynn Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 06/22/11

Date Mailed: 06/24/11

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

LMF/dj

cc:

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