

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-18912
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: January 18, 2012
County: Van Buren

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 January 18, 2012, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's case for the Adult Medical Program (AMP) and Food Assistance Program (FAP)?

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 actively receiving FAP and AMP benefits.
2. At the time, Claimant's mailing address was "[REDACTED] South Haven, Michigan 49090" and his physical residence address was "[REDACTED]". (Hearing Summary).
3. In October, 2011, Claimant verbally informed the Department that he had transportation problems and could no longer make it to his PO Box. At that time, Claimant requested that the Department use his residence address rather than his PO Box address.

4. On November 18, 2011, the Department mailed a Verification Checklist (DHS-3503) to Claimant at his PO Box address rather than his residence address. The DHS-3503 was due November 28, 2011. (Department Exhibit 1).
5. On November 29, 2011, the Department mailed Claimant a Notice of Case Action (DHS-1605), which closed Claimant's FAP beginning December 1, 2011 and AMP effective January 1, 2012 for failure to return verifications in a timely manner. (Department Exhibit 2).
6. Claimant received the DHS-3503 and DHS-1605 on or after December 1, 2011.
7. On December 7, 2011, Claimant filed a hearing request and challenged the closure of his FAP and AMP. Claimant indicated on the hearing request that he had "physical or other conditions requiring special arrangements . . . to attend or participate in a hearing." Claimant also indicated that he wanted to continue receiving the amount of Food Assistance until his hearing is decided. (Request for Hearing).

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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 Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.* The Adult Medical Program (AMP) is available to individuals who meet all the eligibility factors in BEM 640. There are two categories of AMP: (1) the G program (AMP-G) and (2) H program (AMP-H). With regard to AMP-G, SDA cash payment recipients are eligible for AMP when they (1) are not eligible for MA or other Department medical programs, and (2) do not have private health care coverage (see "Private Health Coverage" below), and (3) there is not an

enrollment freeze in effect in the month of application. BEM 640. For AMP-H, clients receive medical benefits only. BEM 640. With regard to AMP-H nonfinancial eligibility factors, a person who has private health care coverage is not eligible for AMP. BEM 640. Health care coverage includes comprehensive health insurance (see PRG) and enrollment in a medical care plan such as a health maintenance organization (HMO). BEM 640. Medicare is considered health insurance for AMP purposes. BEM 640. Persons whose coverage is limited to dental and/or vision coverage are eligible for AMP. BEM 640.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

With regard to FAP only, policy requires the department to verify that the individual lives in the area the department services. BAM 220. However, the department may not deny benefits to an individual with no permanent address (e.g., new arrival, migrant, homeless) solely for lack of a verified address. BEM 220. When this occurs, the department employee is required to note the lack of verification and the reason for same on the DHS-1171 or on the case comments section on the Bridges computer system. BEM 220.

For all programs, timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220.

Changes may be reported in person, by mail or by telephone. BAM 105. The Department must act on a change reported by means other than a tape match within 15 workdays after being aware of the change. BAM 220. For FAP, the Department must act on a change reported by means other than a tape match within 10 days after you are aware of the change. BAM 220.

For non-income changes, the Department must complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs ten days after the change is reported. BAM 220.

The Department is required to enter all changes in the Department's computer system (known as "Bridges") by changing the affected data elements. Certify the eligibility results in Bridges for all appropriate benefits and benefit periods. BAM 220.

Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums. BAM 105.

The Department must ensure client rights described in this item (BAM 105) are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. BAM 105.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action. BAM 600.

Clients have the right to all of the following:

- Representation by legal counsel, or other person of choice, at the client's expense.
- Barrier free access to the hearing site.
- Interpreters: see BAM 105.
- Child care and transportation costs as necessary to ensure that full participation in the hearing process is possible. BAM 600.

Here, the Department failed to send Claimant proper notice of the DHS-3503 and DHS-1605 when it sent the notice to Claimant's Post Office Box. This Administrative Law Judge finds that Claimant informed the Department that, due to transportation problems, he prefers to receive correspondence at his residence address. The Department failed to heed Claimant's request and sent the DHS-3503 and DHS-1605 to Claimant's PO Box. During the hearing, the Department representative was unable to explain why this had occurred. Accordingly, this Administrative Law Judge finds that the Department failed to provide Claimant with adequate notice of the verifications and improperly closed Claimant's FAP and AMP.

In addition, the Claimant stated that during the hearing that the Department failed to provide him with continued FAP benefits while the hearing was pending. Here, Claimant timely requested a hearing (negative action date was November 29, 2011 and request for hearing received on December 7, 2011). In his request, Claimant stated that he wanted his FAP benefits continue while the hearing is pending. The Department failed to honor Claimant's request.

Claimant also complains that the Department did not respond when he indicated in his request for hearing that he had “physical or other conditions requiring special arrangements for him to attend the hearing.” It should be noted, however that the Claimant actually attended the hearing and he did not indicate that he had requested reimbursement for transportation expenses.

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 acted improperly when it closed Claimant’s case for FAP and AMP.

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 not act properly.

Accordingly, the Department’s decision is REVERSED for the reasons stated above and 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:

Reinstate Claimant’s FAP and AMP cases back to the respective dates of closure for both programs (December 1, 2011 for FAP and January 1, 2012 for AMP).

In addition, the Department shall provide Claimant with retroactive FAP benefits back to the date of closure. The Department must resend verification requests to Claimant at his residence address rather than his Post Office Box.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/26/12

Date Mailed: 1/26/12

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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 effect the substantial rights of the claimant;
 - the 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

CAP/ds

