

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

**IN THE MATTER OF:**

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

Reg. No.: 2012-76117  
Issue No.: 2018; 3019  
Case No.: ██████████  
Hearing Date: June 26, 2013  
County: Wayne (43)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and ██████████, Claimant's Authorized Hearing Representative (AHR) from ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager, and ██████████, Eligibility Specialist.

**ISSUES**

Did the Department properly close Claimant's case for Food Assistance Program (FAP) effective September 1, 2012, ongoing?

Did the Department properly process Claimant's Medical Assistance (MA) benefits effective August of 2012, ongoing?

**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. On August 6, 2012, Claimant applied for FAP benefits.
2. In August of 2012, the Department ran a wage match and determined Claimant had two employers. See Exhibit 1.

3. On August 6, 2012, the Department sent Claimant a Verification Checklist ("VCL") and two Verifications of Employment, which were all due back by August 16, 2012. Exhibit 1.
4. On August 7, 2012, the Department sent an additional VCL, which was due back by August 17, 2012. Exhibit 1.
5. On August 15, 2012, the Department received one of the Claimant's Verification of Employment documents. Exhibit 1.
6. On August 16, 2012, the Department received Claimant's bank statements. Exhibit 1.
7. The Department did not receive Claimant's other request for Verification of Employment.
8. On August 18, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were closed effective September 1, 2012, ongoing, due to her failure to submit the requested verifications. Exhibit 3.
9. On September 7, 2012, Claimant filed a hearing request, protesting her FAP and MA benefits. Exhibit 1.
10. On November 19, 2012, an administrative hearing was scheduled in regards to Claimant's September 7, 2012 hearing request. Exhibit 2.
11. On November 20, 2012, an Administrative Law Judge granted an adjournment of Claimant's November 19, 2012 administrative hearing. Exhibit 2.
12. Claimant's administrative hearing was rescheduled for December 13, 2012. Exhibit 2.
13. On December 13, 2012, Claimant did not appear for her scheduled hearing.
14. On December 13, 2012, the Department issued an Order of Dismissal in regards to Claimant's September 7, 2012 hearing request because she did not appear for her scheduled hearing. Exhibit 2.
15. On December 13, 2012, the Supervising Administrative Law Judge ordered that the December 13, 2012 Order of Dismissal is vacated and granted Claimant's hearing to be rescheduled. Exhibit 2.
16. On June 11, 2013, the Department mailed Claimant a Notice of Hearing which was scheduled on June 26, 2013. Exhibit 1.

## **CONCLUSIONS OF LAW**

Department policies are found 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 Michigan Administrative Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

As a preliminary matter, Claimant's AHR requested that her Claimant's hearing be in-person. See Exhibit 2. However, Claimant's hearing was not scheduled for an in-person hearing. Claimant's AHR testified that the hearing could proceed via a telephone hearing.

### **FAP benefits**

In the present case, on August 6, 2012, Claimant applied for FAP benefits. In August of 2012, the Department ran a wage match and determined Claimant had two employers. See Exhibit 1. On August 6, 2012, the Department sent Claimant a Verification Checklist ("VCL") and two Verifications of Employment, which were all due back by August 16, 2012. Exhibit 1. On August 7, 2012, the Department sent an additional VCL, which was due back by August 17, 2012. Exhibit 1. On August 15, 2012, the Department received one of the Claimant's Verification of Employment documents. Exhibit 1. On August 16, 2012, the Department received Claimant's bank statements. Exhibit 1. The Department testified that it did not receive Claimant's other request for Verification of Employment. Thus, on August 18, 2012, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were closed effective September 1, 2012, ongoing, due to her failure to submit the requested verifications. Exhibit 3.

Clients must cooperate with the local office in completing necessary forms for determining initial and ongoing eligibility. BAM 105 (May 2012), p. 5. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 (May 2012), p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

For FAP cases, the Department allows the client 10 calendar days to provide the verification the Department requests. BAM 130, p. 5. Also for FAP cases, if 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, then policy directs that a negative action be issued. BAM 130, p. 5. Additionally, before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6. Moreover, the Department does not deny or terminate assistance because an employer or other source refuses to verify income. BEM 501 (July 2012), p. 7.

At the hearing, the Department testified that it ran a wage match and identified that Claimant had two employers. See Exhibit 1. Thus, the Department sent two Verifications of Employment to the Claimant; however, it only received one of the requested employment verifications. See Exhibit 1. Therefore, the Department testified that it closed Claimant's FAP benefits for failure to comply with the verification requirements.

Claimant testified that she was unable to provide one of the Verifications of Employment because she did not recognize the employer name on the requested document. Exhibit 1. Claimant testified that she spoke to the Department before the VCL due date and stated she does not know or work for the company that the Verification of Employment is referring to. Furthermore, Claimant agreed, though, that she did have two employers at the time of application. The Department was unable to provide Claimant's application at the time of the hearing to determine if Claimant listed both of her employers on the application. Nevertheless, Claimant testified that after the closure of her FAP case, she discovered the name of the employer contained on the VCL at issue. Claimant testified that the employer's name was the parent company of her employer. Claimant testified she did not know that at the time of the requested Verification of Employment.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP case effective September 1, 2012, ongoing. First, even though the Claimant did not provide the requested verification, the Department had available income information for the requested employer. A review of the wage match indicates reported earnings for the employer the Department was seeking verification from. See Exhibit 1. The Department could have used this available information and run Claimant's eligibility. BAM 130, p. 3. Second, Claimant provided credible testimony that before her VCL due date that there was a discrepancy as to her employer's name. The Department should have given Claimant a reasonable opportunity to resolve the employer name issue. BAM 130, p. 6. Thus, the Department improperly closed Claimant's FAP case effective September 1, 2012, ongoing, in accordance with Department policy.

**MA benefits**

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (May 2012), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 16. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (May 2012), p. 12. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 12. If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness to avoid receiving an overdue task in the system. BAM 115, p. 18. The Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 18. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 19.

At the hearing, Claimant testified that she applied for both FAP and MA benefits on August 6, 2012. Moreover, Claimant indicated on her hearing request that she was disputing her MA benefits as well. See Exhibit 1. The Department testified that Claimant only applied for FAP benefits and not MA benefits. However, at the hearing, a review of the VCL dated August 6, 2012, showed that the Department checked marked the Medical Assistance box as well when determining eligibility. See Exhibit 1, p. 13.

Based on the foregoing information and evidence, the Department failed to process Claimant's MA application effective August 2012. First, Claimant provided credible evidence that she was requesting a hearing as well for her MA benefits on September 7, 2012. See Exhibit 1. Second, the VCL dated August 6, 2012, indicates that the Department was requesting verification documents to determine MA eligibility. See Exhibit 1, p. 13. Third, the Department failed to present Claimant's application at the hearing to show if Claimant had applied for MA benefits. Thus, the Department failed to satisfy its burden showing that it acted in accordance with Department policy when it failed to take any action on Claimant's MA application effective August 2012. BAM 110, pp. 4 and 16; BAM 115, pp. 12, 18, and 19.


**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and 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 DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate Claimant's FAP case as of September 1, 2012, ongoing;
2. The Department shall initiate verification of Claimant's employment;
3. The Department shall begin recalculating the FAP budget for September 1, 2012, ongoing, in accordance with Department policy;
4. The Department shall issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2012, ongoing;
5. The Department shall register and initiate processing of Claimant's August 2012 MA application;
6. The Department shall begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from August of 2012, ongoing; and
7. Notify Claimant and Claimant's AHR in writing of its FAP and MA decision in accordance with Department policy.



**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 3, 2013

Date Mailed: July 3, 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

EJF/cl

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