

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201320671
Issue No.: 2006; 3008; 4003
Case No.: [REDACTED]
Hearing Date: May 9, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED], Claimant's fiancée; and [REDACTED] Claimant's attorney. Participants on behalf of Department of Human Services (Department) included [REDACTED], Medical Contact Worker.

ISSUE

Did the Department properly close Claimant's cases for Food Assistance Program (FAP), State Disability Assistance (SDA), and Medical Assistance (MA) 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 was an ongoing recipient of FAP, SDA, and MA.
2. On December 3, 2012, the Department sent Claimant a Notice of Case Action notifying her that (i) her SDA and MA cases were closing effective January 1, 2013 because Claimant had failed to request documentation to complete a disability determination and (ii) she was denied FAP benefits from September 4, 2012, ongoing, because she had failed to verify or allow the Department to verify information necessary to determine her eligibility for the program.

3. On August 27, 2012, Claimant filed a hearing request, protesting the Departments actions.

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 (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 Mich Admin Code, R 400.3001 through R 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

Additionally, the Department testified that on July 1, 2012, Claimant was approved for MA, SDA and FAP benefits. On December 3, 2012, the Department sent Claimant a Notice of Case Action closing her MA and SDA cases effective January 1, 2013, because Claimant had failed to return documentation to complete a disability determination. The Notice also indicated that Claimant's FAP benefits had been denied from September 4, 2012, ongoing, because Claimant had failed to verify or allow the Department to verify information necessary to determine eligibility for the program. There was no evidence presented that the Department had notified Claimant of the closure of her FAP case prior to the December 3, 2012 Notice. Although Claimant's hearing request did not identify the programs at issue, Claimant's testimony at the hearing indicated she requested a hearing concerning all her case closures.

At the hearing, the Department testified that Claimant had failed to provide verification of her income and disability. However, the Department presented no evidence concerning what verifications Claimant had been requested to provide, or when those verifications were due. See BAM 130 (May 2012), pp 2-3. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA, SDA and FAP cases.

When Claimant testified that her initial application for Supplemental Security Income (SSI) had been denied by the Social Security Administration (SSA), the Department piggy-backed on Claimant's testimony to assert that Claimant's cases had closed because she did not have an active SSI case. A client seeking disability-based MA and SDA must pursue SSI. BEM 271 (June 2012), p 1. However, the Department may not close an MA case unless (i) the client completed the SSI appeals process and a final denial was issued or (ii) the period to appeal has lapsed. BEM 271, pp 8-9. Claimant testified at the hearing that she had appealed SSA's determination. The Department presented absolutely no evidence to counter Claimant's testimony. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case based on the SSA's actions. Furthermore, the SSA's final determination is **not** binding on the Department's SDA decision, and the Medical Review Team's determination that the client meets the disability factor continues for SDA until the next scheduled medical review. BEM 271, p 9. Thus, the Department could not close Claimant's SDA case based on an SSA decision if an MRT finding of disability had been made.

Based on the Department's lack of evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's SDA, MA, and FAP cases.

In her hearing request, Claimant requested that the Department continue to provide her with MA coverage pending the hearing. Because Claimant's December 21, 2012 request for hearing was not a timely hearing request, the Department properly denied Claimant's request at the time. BAM 600 (February 2013), p 18; BAM However, because this Hearing Decision reverses the Department's decision, Claimant's MA coverage will be reinstated as of January 1, 2013, the date identified for closure in the December 3, 2012, Notice of Case Action.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's SDA, MA and FAP cases.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's SDA and MA cases effective January 1, 2013;

2. Provide Claimant with MA coverage she was eligible to receive from January 1, 2013, ongoing;
3. Issue supplements to Claimant for SDA benefits she was eligible to receive but did not from January 1, 2013, ongoing;
4. Reinstate Claimant's FAP case effective September 4, 2012;
5. Begin recalculating Claimant's FAP eligibility and benefit amount for September 4, 2012, ongoing, in accordance with Department policy;
6. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from September 4, 2012, ongoing; and
7. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 5/17/2013

Date Mailed: 5/17/2013

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 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

ACE/hw

cc:

