

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

IN THE MATTER OF:

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Reg. No.: 2013-47509
Issue No.: 2018;3019;5000
Case No.: ██████████
Hearing Date: June 13, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 13, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Assistance Payment Supervisor.

ISSUE

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA), Food Assistance Program (FAP) and State Emergency Relief (SER)?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FAP and MA benefits.
2. On February 13, 2013, the Department sent Claimant a redetermination that was to be completed and returned on or before March 5, 2013. (Exhibit 1)
3. On April 12, 2013, the Department sent Claimant a Verification Checklist (VCL) for which Claimant was required to submit requested verifications by April 22, 2013. (Exhibit 3)

4. On April 30, 2013 the Department sent Claimant a Notice of Case Action informing her that her MA case was closed effective April 1, 2013 and that her FAP case would be closing effective May 1, 2013 for failure to verify requested bank savings account information. (Exhibit 2)
5. There was no negative action taken with respect to Claimant's SER case within the 90 days prior to her filing a request for hearing.
6. On May 8, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

MA/FAP

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 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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (November 2012), p 1. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. Verifications for FAP redeterminations must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 12. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information for MA redeterminations. Timely notice of the negative action is given if the time limit is not met. BAM 210, p.11. Additional verifications may be required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (May 2012), p.1. To request verification of information, the Department sends

a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 5.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. 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. BAM 220 (November 2012), pp.3-4.

In this case, on February 13, 2013, the Department sent Claimant a redetermination for her MA and FAP cases that was to be completed and returned on or before March 5, 2013. (Exhibit 1). Claimant completed and returned the redetermination on March 27, 2013. BAM 210, p. 12; (Exhibit 1). With the completed redetermination, Claimant submitted verification of her bank checking accounts and time cards from her son's employment which indicate the number of hours worked per pay period. (Exhibit 5). On April 12, 2013, the Department sent Claimant a Verification Checklist (VCL) for which Claimant was required to submit additional verifications of her savings account and verification from her son's employer by April 22, 2013. (Exhibit 3).

Claimant submitted the completed verification of her son's employment on April 24, 2013. (Exhibit 4). At the hearing, Claimant testified that her son gets paid through direct deposit and that he does not receive pay stubs or earning statements, which is why she submitted the time cards, as she did not have any other information to provide the Department with. Using the verification of employment submitted by Claimant's son's employer and the time cards as the best available evidence, the Department should have found this information sufficient. Claimant further stated that by mistake, she indicated on her redetermination that she had a savings account but she really did not. Claimant testified that she repeatedly informed the Department about this mistake and that she inquired about how she was required to get verification of an account that she does not have.

On April 30, 2013 the Department sent Claimant a Notice of Case Action informing her that her MA case was closed effective April 1, 2013 and that her FAP case would be closing effective May 1, 2013 for failure to verify requested bank savings account information. (Exhibit 2). At the hearing, the Department acknowledged that it acted in error when it closed Claimant's FAP and MA cases for failure to verify the savings account information. Claimant made a reasonable effort to submit all of the required information and did not indicate a refusal to provide the requested verifications. BAM 130, p.5. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's FAP and MA cases for failure to verify bank savings account information, of an account that did not exist. Additionally, the Department failed to provide Claimant with timely notice of the closure of her FAP and MA cases as required by BAM 220, pp.3-4. As such, the Department's FAP and MA decisions are REVERSED.

SER

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Code, R 400.7001 through R 400.7049.

The Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (February 2013), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, Claimant requested a hearing regarding an SER application that she stated she submitted. At the hearing, Claimant initially testified that she submitted an online application for SER in February 2013. Claimant testified that she did not receive an SER Decision Notice and that she was verbally informed by the Department that she was not eligible for SER assistance with her eviction, as she had not yet received a summons or judgment. Neither Claimant nor the Department had any evidence regarding this application and the Department had no record of a paper or online SER application that was ever registered for Claimant in February 2013. After being informed by the Department that there was no record of her online application, Claimant then testified that she submitted a paper application in person. Because there was no record of any SER application submitted in February 2013 and Claimant provided conflicting testimony regarding the application, there does not appear to be any negative action taken by the Department with respect to Claimant's SER application. Therefore, Claimant's hearing request with respect to Claimant's SER is DISMISSED for lack of jurisdiction. BAM 600, p 4.

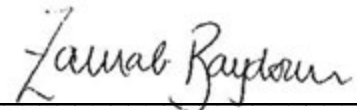
DECISION AND ORDER

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 Claimant's hearing request with regards to SER is DISMISSED.

The Administrative Law Judge further finds that the Department did not act in accordance with policy when it processed Claimant's benefits for MA and FAP benefits. Accordingly, the Department's MA and FAP decisions are REVERSED.

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

1. Initiate reinstatement of Claimant's MA case effective April 1, 2013 in accordance with Department policy and consistent with this Hearing Decision;
2. Initiate reinstatement of Claimant's FAP case effective May 1, 2013 in accordance with Department policy and consistent with this Hearing Decision;
3. Begin reprocessing Claimant's FAP and MA redeterminations;
4. Begin issuing supplements to Claimant for any MA coverage that she was entitled to receive but did not from April 2013, ongoing in accordance with Department policy;
5. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from May 1, 2013; and
6. Notify Claimant of all decisions in writing in accordance with Department policy;



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 19, 2013

Date Mailed: June 19, 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.

ZB/cl

cc: [REDACTED]
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