

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201331583
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: March 26, 2013
County: Oakland 03

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 26, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly close Claimant's Medical Assistance (MA) for failure to provide required verifications?

Did the Department of Human Services properly close Claimant's Food Assistance Program (FAP) for failure to provide required verifications?

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 Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
- (2) On December 5, 2012, a Special Needs Trust was established for Claimant by order of the Oakland County Probate Court in order to deal with a three year retroactive payment from the Social Security Administration.
- (3) On January 19, 2013, Claimant was sent a Verification Checklist (DHS Form 3503). The required verifications were due on January 29, 2013.
- (4) On January 30, 2013, the Department had not received the requested verifications. Claimant was sent a Notice of Case Action (DHS-1605) which stated that his Food Assistance Program (FAP) was: approved for \$ [REDACTED] from August 1, 2012 to September 30, 2012; approved for \$ [REDACTED] from October 1, 2012 to December 31, 2012; and closed from January 1, 2013.

The notice also stated Claimant's Medicare Savings Program was going to close on March 1, 2013.

- (5) On February 19, 2013, Claimant submitted a request for hearing along with his bank statement and a copy of the Special Needs Trust.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by 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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Department representative at this hearing was ES Silas, who was not Claimant's case worker at the time of the events involved in this hearing. The facts in evidence indicate that Claimant was sent the Verification Checklist (DHS Form 3503) to determine if he had excess assets. Department of Human Services Bridges Eligibility Manual (BEM) 400 Assets (2012) page states "Verify the value of countable assets at application, redetermination and when a change is reported."

Department of Human Services Bridges Administration Manual (BAM) 220 Case Actions (2013) defines a negative action as a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 also specifies that timely notice is given for a negative action unless policy specifies adequate notice or no notice and that timely notice is mailed at least 11 days before the intended negative action takes effect because the action is pended to provide the client a chance to react to the proposed action.

Regarding the closure of Claimant's Medicare Savings Program, Bam 220 states that for all programs, a negative action is only deleted if requirements are met before the negative action date. In this case the negative action date was February 11, 2013. The required verifications were submitted February 15, 2013, after the negative action date. Closure of Claimant's Medicare Savings Program was a correct action.

Regarding the closure of Claimant's Food Assistance Program (FAP) the section of BAM 220 which identifies actions which do not require notice is provided below for clarification.

Actions Not Requiring Notice

FAP Only

A notice of case action is **not** sent in the situations below. The action must take effect no later than the month after the change.

- Reliable information indicates the group left the state.
- Reliable information indicates all members died. Reliable sources generally include a newspaper, friends or relatives of the group, or other agencies.
- Supplementation over multiple months to restore lost benefits is completed; see BAM 406.
- From a joint FIP/SDA and FAP application, the FAP benefit began first **and** the FAP approval letter indicated the benefit might decrease if FIP/SDA were later approved.
- The FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, **and** the group was so notified at that time.
- Benefits are reduced for failure to repay an FAP over-issuance that resulted from IPV (BAM 720) or client error (BAM 715). Also see BAM 725.
- The FAP certification period has expired.
- The group voluntarily requests closure in writing.

No section of BAM 220 provides for retroactive negative actions. The Department has not provided any evidence to show the validity of retroactively closing Claimants Food Assistance Program (FAP) twenty-nine days before the requested verifications were due.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Medical Assistance (MA) for failure to provide required verifications. However, the Department DID NOT properly close Claimant's Food Assistance Program (FAP) for failure to provide required verifications.

It is ORDERED that the actions of the Department of Human Services regarding Claimant's Medical Assistance (MA) are UPHELD.

It is ORDERED that the actions of the Department of Human Services regarding Claimant's Food Assistance Program (FAP) are REVERSED.

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It is further ORDERED that Claimant's Food Assistance Program (FAP) be reinstated and processed in accordance with Department policy.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/9/13

Date Mailed: 4/10/13

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 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

GFH/tb

cc:

