

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-55349
Issue Nos.: 2017, 3008
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Oakland (63-03)

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 July 25, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's Food Assistance Program (FAP) and Medicare Savings Program (MSP) cases?

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 an ongoing recipient of FAP and MSP benefits.
2. Pursuant to a cross match with the Michigan Lottery, the Department became aware of Claimant's lottery winnings on [REDACTED].
3. On June 6, 2013, the Department sent Claimant a Verification Checklist (VCL) concerning Claimant's ongoing FAP and MSP eligibility requesting (i) a bank statement for all accounts showing the account balance as of June 1, 2013, and (ii) proof of the lottery winnings.
4. Claimant was required to submit requested verification by June 17, 2013.

5. On June 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective July 1, 2013, because she had failed to verify requested information.
6. On June 25, 2013, Claimant filed a hearing request disputing the Department's action and included her checking account statements for the period from June 1, 2013, to June 22, 2013, and for the period from April 25, 2013, to May 24, 2013.

CONCLUSIONS OF LAW

Department policies are found 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.

On her hearing request, Claimant did not identify the programs at issue but indicated that she was concerned about changes to her cases because of her lottery winnings. The Department testified that it closed Claimant's FAP case effective July 1, 2013, and her MSP case effective August 1, 2013, because Claimant had failed to timely respond to a June 6, 2013, Verification Checklist (VCL) requesting (1) proof of the gross amount received on [REDACTED], from the Michigan Lottery and (2) copies of all accounts showing the account balances as of June 1, 2013.

Through a data exchange with the Michigan Lottery, the Department matches Department clients who are reported lottery winners. BAM 809 (May 2013), p. 1. For FAP change reporters with other active programs, if winnings are \$5,000 or less, the Department is required to send a VCL request to determine if the client is over the asset level. BAM 809, p. 2. For MA cases, lump sums and accumulated benefits are income in the month received and may be countable assets for any subsequent months. BAM 809, p. 1.

Assets must be considered in determining eligibility for FAP and MSP. BEM 400 (July 1, 2013), p. 3. Cash, including bank accounts and savings, are assets. BEM 400, pp.

11-12. Asset eligibility for FAP exists when the group's countable assets are less than, or equal to, the FAP asset limit of \$5,000 at least one day during the month being tested. BEM 400, pp. 3-4. The MSP asset limit for a group of one is \$7,080. BEM 400, p. 5.

In determining Claimant's ongoing eligibility for FAP and MSP, the Department sent Claimant a June 6, 2013, VCL requesting by June 16, 2013, (1) proof of the gross amount received on [REDACTED], from the Michigan Lottery and (2) copies of all accounts showing the account balances as of June 1, 2013. The evidence at the hearing established that Claimant did not respond to the VCL by the June 16, 2013, due date. However, she submitted to the Department on June 25, 2013, a copy of her checking statement for the period for April 25, 2013, to May 24, 2013, and an online printout of her checking transactions for June 1, 2013, to June 22, 2013. The online printout showed that Claimant's balance for her first transaction within the June 1, 2013, to June 22, 2013, period was \$1,182.63. This documentation was responsive to the Department's request for information concerning her account balance as of June 1, 2013. Although Claimant did not submit any documentation concerning the gross amount of her lottery winning, the Department had this information from the data exchange match with the Michigan Lottery. See BAM 809, p. 1 (providing that "the match contains the . . . gross amount of winnings, the net payout and the date winnings were received.") Accordingly, additional verification of the gross proceeds was duplicative of information the Department already had and unnecessary. Because Claimant submitted the necessary information requested by the VCL within the negative action period for the Notice of Case Action sent on June 19, 2013, the Department was required to remove the negative action and run eligibility, which would have established that Claimant did not exceed the asset limit for FAP or MSP. See BAM 220 (July 2013), p. 10. Thus, the Department did not act in accordance with Department policy when it closed Claimant's MSP and FAP cases for failure to verify.

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 in accordance with Department policy when it closed Claimant's FAP and MSP 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 FAP case as of July 1, 2013, and MSP case as of August 1, 2013; and

2. Issue supplements to Claimant for any FAP and/or MSP benefits she was eligible to receive but did not.



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

Date Signed: July 29, 2013

Date Mailed: July 30, 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,
 - 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/pf

cc:

