

**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.: 2013-55914
Issue No.: 2006; 3008
Case No.: ██████████
Hearing Date: July 31, 2013
County: Oakland (2)

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 July 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUES

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective July 1, 2013, ongoing, due to Claimant's failure to submit the redetermination?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective May 31, 2013, ongoing, due to Claimant's failure to submit the Semi-Annual Contact form?

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 and MA benefits.
2. On April 1, 2013, Claimant changed her address online.
3. On April 1, 2013, the Department sent Claimant a Semi-Annual Contact Report to her previous address, which was due back by May 1, 2013. Exhibit 1.

4. On April 15, 2013, the Department sent Claimant a Redetermination to her new address, which was due back by May 1, 2013. Exhibit 1.
5. In the second week of May 2013, Claimant received the Semi-Annual Contact Report from the Department.
6. On May 10, 2013, the Department sent Claimant a Notice of Potential FAP closure letter. See Exhibit 1.
7. In May 2013, Claimant went to her local DHS office to submit her Semi-Annual Contact Report in the drop box, however, was notified that no drop box was present.
8. In May 2013, Claimant was advised at her local DHS office to either scan her Semi-Annual Contact Report or submit it via U.S. postage.
9. In May 2013, Claimant submitted her Semi-Annual Contact Report via U.S. postage.
10. On May 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination. Exhibit 1.
11. On May 31, 2013, Claimant's FAP benefits closed due to Claimant's failure to submit a Semi-Annual Contact Report.
12. In June 2013, Claimant's Semi-Annual Contact Report was returned requiring additional postage. See Exhibit A.
13. On June 14, 2013, Claimant faxed her Semi-Annual Contact Report and the Redetermination to the Department. See Claimant's Confirmation Page, Exhibit A.
14. On June 14, 2013, the Department received only Claimant's partial fax of her submitted documents. See Exhibit 1.
15. On June 17, 2013, the Department sent Claimant a Notice of Case Action advising Claimant that her other group members' MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination. See Exhibit 1.
16. On June 17, 2013, Claimant contacts the Department and left a voicemail to confirm receipt of the fax.
17. On June 17, 2013, the Department did not contact the Claimant back.
18. On June 25, 2013, Claimant filed a hearing request, protesting the closure of her FAP and MA benefits. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

FAP benefits

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.

For FAP cases, the Department sends a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (November 2012), p. 7. A report is considered complete when all of the sections (including the signature section) on the DHS-1046 are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 7.

If the DHS-1046 is not logged in by the tenth day of the sixth month, the Department will generate a DHS-1046A, Potential Food Assistance (FAP) Closure, to the client. BAM 210, p. 9. This reminder notice explains that the client must return the DHS-1046 and all required verifications by the last day of the month or the case will close. BAM 210, p. 9. If the client fails to return a complete DHS-1046 by the last day of the sixth month, the Department will automatically close the case. BAM 210, p. 9.

Redetermination/review forms may include a DHS-1046, Semi-Annual Contact Report (FAP). BAM 210, p. 5. The packet includes the following as determined by the TOA to be redetermined: a return envelope. BAM 210, p. 6. Also, local offices must assist clients who need and request help to complete applications, forms and obtain verifications. BAM 210, p. 1.

In this case, Claimant was an ongoing recipient of FAP benefits. Claimant testified that in the second week of May 2013, she received the Semi-Annual Contact Report from the Department. On May 10, 2013, the Department sent Claimant a Notice of Potential FAP closure letter. See Exhibit 1. In May 2013, Claimant testified that she went to her local DHS office to submit her Semi-Annual Contact Report in the drop box, however, was notified that no drop box was present. Claimant was then advised at her local DHS office to either scan her Semi-Annual Contact Report or submit it via U.S. postage. Claimant testified that there was a large line and Claimant submitted her Semi-Annual Contact Report via U.S. postage in May 2013. On May 31, 2013, Claimant's FAP benefits closed due to Claimant's failure to submit a Semi-Annual Contact Report. In

June 2013, Claimant's Semi-Annual Contact Report was returned requiring additional postage. See Exhibit A. Claimant testified that she eventually faxed her Semi-Annual Contact Report on June 14, 2013; however, the Department testified that it only received a portion of it. See Exhibits 1 and A.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective May 31, 2013, ongoing. Claimant credibly testified that she made a reasonable attempt to submit her Semi-Annual Contact Report without success. Moreover, in May 2013, Claimant credibly testified that she went to her local DHS office to drop off her form, however, was informed no drop box was present. It should be noted the Department did not rebut this testimony. The Department should have assisted the Claimant in submitting the necessary information. See BAM 210, p. 1. Nevertheless, Claimant attempted to mail her forms and provided proof that such documentation was sent, but was returned for insufficient postage. See Exhibit A. Again, the Department should have provided a return envelope for the Semi-Annual Contact Report as required per BAM 210. BAM 210, p. 6. In summary, Claimant made several reasonable attempts to submit her documentation and the Department did not assist the Claimant during this process.

MA benefits

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.

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. For MA cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 2.

In this case, Claimant was an ongoing recipient of MA benefits. On April 15, 2013, the Department sent Claimant a Redetermination to her new address, which was due back by May 1, 2013. Exhibit 1. On May 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination. Exhibit 1. On June 14, 2013, Claimant faxed her Semi-Annual Contact Report and the Redetermination to the Department. See Claimant's Confirmation Page, Exhibit A. On June 14, 2013, the Department received only Claimant's partial fax of her submitted documents. See Exhibit 1. On June 17, 2013, the Department sent Claimant a Notice of Case Action advising Claimant that her other group members' MA benefits would close effective July 1, 2013, ongoing, due to her failure to submit the redetermination. See Exhibit 1.

At the hearing, the Department testified that it not only received a partial fax of the redetermination, but Claimant failed to provide her income verification. The Redetermination specifically states to provide proof of income. See Exhibit 1. Claimant did list as well that she is earning income in the redetermination. See Exhibit 1. Claimant did not dispute that she did not fax the income verification. However, she stated she attempted to contact the Department on June 17, 2013 regarding the redetermination packet. The Department testified that it did receive her call on this date and stated that he did not call back.

Regarding verifications, 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 you 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.

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA benefits effective July 1, 2013, ongoing. Claimant reasonably believed that she submitted the redetermination before the July 1, 2013 closure because Claimant provided a confirmation page. See Exhibit A. However, the Department only received a partial fax and provided it as an exhibit. See Exhibit 1. Claimant, though, took an additional step and contacted the Department few days later to inquire on her redetermination. The Department confirmed the call and testified that it did not call back. Even if Claimant did not provide proof of income, the Department could have used the best available information Claimant had provided in her redetermination. See Exhibit 1 and BAM 130, p. 3.

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 (i) improperly closed Claimant's FAP benefits effective May 31, 2013, ongoing, and (ii) improperly closed Claimant's MA benefits effective July 1, 2013, ongoing.

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. Reinstate Claimant's FAP case as of May 31, 2013, ongoing;
2. Begin recalculating the FAP budget for May 31, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 31, 2013, ongoing;

4. Reinstate Claimant's MA case as of July 1, 2013, ongoing;
5. Begin recalculating the MA budget for July 1, 2013, ongoing, in accordance with Department policy;
6. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
7. Notify Claimant in writing of its MA and FAP decision in accordance with Department policy.



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

Date Signed: August 6, 2013

Date Mailed: August 6, 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

cc: [REDACTED]
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