

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

IN THE MATTER OF:



Reg. No.: 2013-61620
Issue No.: 2006
Case No.: [REDACTED]
Hearing Date: October 22, 2013
County: SSPC-WEST

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 22, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and his Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialists (ES), [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FIP FAP MA AMP SDA CDC DSS SSP benefits.
2. There is no DHS-1605, Notice of Case Action in evidence regarding the MA closure. Per the Claimant's AHR's testimony, on or about June 19, 2013, the Department closed Claimant's case. Per the testimony at the hearing, it was due to the Claimant turning [REDACTED] years of age.

3. At some point, the Claimant reapplied for MA and on July 19, 2013, the Department sent Claimant its decision denying the Claimant's application for MA, for failure to submit the requested verification.
4. On July 30, 2013, Claimant filed a hearing request, protesting the Department's 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858g; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, it was not contested that the verification of assets was not submitted. The Claimant testified that his [REDACTED] promised to submit the form once it was completed, but apparently the [REDACTED] did not do that. The Claimant's AHR protested the closure of the MA case in the first instance. The Claimant's AHR testified that he called his local office in [REDACTED] several times regarding the closure and could never reach anyone and his messages went unanswered. The Claimant's AHR indicates that he went to his local office to seek assistance and was told he could not see anyone there. While he was at the local office he was referred to a telephone so that he could call a DHS worker and leave a message. The testimony could not be refuted by the ES at the hearing, as she was located at SSPC-West.

Though the Claimant originally submitted a hearing request protesting the denial of his application for MA, the Claimant's AHR is clearly protesting the closure of the MA case. The Claimant's AHR testified that he did get notice that the Claimant's case was closed, after the Claimant's case had already closed. As the uncontested testimony was that this closure occurred in June of 2013, the Administrative Law Judge determines that the Claimant's hearing request is sufficiently timely so as to determine whether or not the MA closure was in accordance with departmental policy.

Bridges Administrative Manual (BAM) 220 (2012) pp. 3, 4, provides that the Claimant be provided with timely notice of a negative action which is mailed at least 11 days before the intended negative action takes effect. As there is no DHS-1605, Notice of Case Action in evidence regarding the closure, the Administrative Law Judge cannot determine if the Claimant was sent timely notice of his closure. Furthermore, BAM 220 p. 14, provides that an ex parte review must begin at least 90 days prior to the closure of any MA. When such a review indicates that there is no potential eligibility under another MA category, the worker is to send timely notice of Medicaid case closure. In this case, the Department's ES testified that the Claimant was potentially eligible for continued MA even though he was over 19. As such, the Administrative Law Judge determines that the evidence is insufficient to establish that the Department was acting in accordance with its policy when taking action to close the Claimant's MA case.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it took action to close the Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate the Claimant's MA case back to the closure date, and
2. Re-determine the Claimant's eligibility for MA back to the closure date.

/s/
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/23/13

Date Mailed: 10/23/13

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

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The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

SEH/tb

cc:

