

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-68666
Issue No.: 2006; 3008
Case No.: ██████████
Hearing Date: October 23 and 28, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on October 23 and 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's interpreter, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist, and ██████████, Regulation Agent of the Office of Inspector General (OIG).

ISSUES

Did the Department properly close Claimant's and his wife's Medical Assistance (MA) benefits effective August 1, 2013, ongoing, due to his failure to comply with the verification requirements?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective August 1, 2013, ongoing, due to his failure to comply with the verifications requirements?

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 and his wife were ongoing recipients of MA benefits. See Exhibit 1.
2. Claimant was also an ongoing recipient of FAP benefits. See Exhibit 1.
3. On July 16, 2013, Claimant submitted his Semi-Annual Contact Report.

4. The Department reviewed his Semi-Annual Contact Report and discovered that Claimant possibly is the owner of a business.
5. The Department also reviewed his Semi-Annual Contact Report and discovered that Claimant had failed to provide verification of his income and self-employment.
6. On July 16, 2013, the Department sent Claimant a Notice of Case Action notifying him that he failed to verify his income and self-employment. See Exhibit 1.
7. On July 16, 2013, the Notice of Case Action also requested that Claimant submit a copy of his signed personal and business tax returns (2012). See Exhibit 1.
8. On July 16, 2013, the Notice of Case Action also notified him that Claimant's and his wife's MA benefits would close effective August 1, 2013, ongoing. See Exhibit 1.
9. On July 16, 2013, the Notice of Case Action notified Claimant that his children's (four children total) Other Healthy Kids (OHK) MA coverage was approved for August 1, 2013, ongoing. See Exhibit 1.
10. On the July 16, 2013 certification date, the Eligibility Summary indicated that Claimant's FAP benefits would close effective August 1, 2013, ongoing. See Exhibit 1.
11. On July 22, 2013, Claimant submitted only his personal tax returns (2012).
12. On September 10, 2013, Claimant filed a hearing request, protesting his FAP and MA benefits. Exhibit 1.
13. On October 24, 2013, an Order of Continuance was sent to both parties stating that the hearing would continue on October 28, 2013. Exhibit 1.
14. On October 24, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing scheduling Claimant for his continued hearing on October 28, 2013. See Exhibit 1.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013) p. 5. The Department sends a negative action notice when: the client indicates 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. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130, p. 6. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6. The Department send a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7.

Regarding obtaining verification, the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL) to request verification. BAM 130, p. 3.

In this case, Claimant and his wife were ongoing recipients of MA benefits. See Exhibit 1. Claimant was also an ongoing recipient of FAP benefits. See Exhibit 1. On July 16, 2013, Claimant submitted his Semi-Annual Contact Report. The Department reviewed his Semi-Annual Contact Report and discovered that Claimant possibly is the owner of a business.

At the hearing, the Department presented a Department of Licensing and Regulatory Affairs Profit Corporation Information Update document for 2013. See Exhibit 1. A review of corporate name (hereinafter referred to as "Business"), showed what appeared to be Claimant's signing the form and identifying himself as the president of the Business. See Exhibit 1. Moreover, the Department testified that on the other business documentation, Claimant's address appeared under the business address. However, Claimant testified that he is only the employee of the business and not the

owner. In the hearing packet was Claimant's pay stub, which indicated that he was an employee. See Exhibit 1.

Nevertheless, a discrepancy existed due to one document identifying Claimant as the possible owner of the business and Claimant's own statement/pay stub identifying himself only as an employee.

On July 16, 2013, the Department sent Claimant a Notice of Case Action notifying him that he failed to verify his income and self-employment. See Exhibit 1. During the hearing it was determined that this failure to verify his income and self-employment was related to Claimant not providing this information with his Semi-Annual Contact Report. Also, on July 16, 2013, the Notice of Case Action requested that Claimant submit a copy of his signed personal and business tax returns (2012). See Exhibit 1. On July 16, 2013, the Notice of Case Action also notified him that his and his wife's MA benefits would close effective August 1, 2013, ongoing. See Exhibit 1. On July 16, 2013, the Notice of Case Action notified Claimant that his children's (four children total) Other Healthy Kids (OHK) MA coverage was approved for August 1, 2013, ongoing. See Exhibit 1. On July 22, 2013, Claimant submitted only his personal tax returns (2012). The Department testified that it never received Claimant's business tax returns. The Department testified that Claimant's and his wife's MA benefits closed due to his failure to comply with the verification requirements. Moreover, the Department testified that Claimant's entire FAP group's benefits closed due to his failure to comply with the verification requirements. A review of the eligibility summary indicates that both the MA (Claimant and his wife) and FAP (entire FAP group) benefits closed effective August 1, 2013, ongoing. See Exhibit 1.

In the present case, Claimant testified that he is an employee of the company for the past three years. Claimant testified that his address appears under the Business because the owner was living at another residence with other individuals. Claimant testified that the owner asked if he/she could use Claimant's address for the business.

It should be noted that the Department testified that a VCL was not sent because it had to do a manual verification request via the Notice of Case Action. The Department used the Notice of Case Action (dated July 16, 2013) to request the verifications. See Exhibit 1.

It should also be noted that a Notice of Case Action was not generated notifying Claimant of his FAP benefits closure. On the July 16, 2013 certification date, the Eligibility Summary indicated that Claimant's FAP benefits would close effective August 1, 2013, ongoing. See Exhibit 1. The Notice of Case Action (dated July 16, 2013) only notified Claimant that his MA benefits would close; however, it made no mention of his FAP benefits. See Exhibit 1. A negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (July 2013), p. 1. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. Based on this information, the Department failed to notify the Claimant

in writing that his FAP benefits would terminate effective August 1, 2013, ongoing. BAM 220, p. 1.

Nevertheless, the Department improperly closed Claimant's and his wife's MA case effective August 1, 2013, ongoing. Moreover, the Department improperly closed Claimant's FAP benefits effective August 1, 2013, ongoing. There is an obvious discrepancy that exists in regards to whether Claimant is the owner of the Business in question. The Department's own testimony, though, indicates that it closed both programs due to a failure to comply with the verification requirements. Even though Claimant submitted his personal tax returns and states there are no business tax returns, the Department failed to follow the appropriate verifications procedures. Regarding obtaining verification, the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, VCL to request verification. BAM 130, p. 3. The Department used the Notice of Case Action dated July 16, 2013, in substitution of the VCL. This is the incorrect usage of the Notice of Case Action. Instead, the Department should have sent a VCL requesting both the personal and business tax returns. Then, if Claimant failed to submit the verifications, a Notice of Case Action would have been sent. See BAM 220, p. 1.

In summary, there is still a discrepancy that exists in regards to whether the Claimant is the owner of the Business. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7. To resolve the business ownership discrepancy, the Department will initiate verification to determine if Claimant is the business owner and in accordance with Department policy. In the interim, Claimant's and his wife's MA benefits and the FAP group's benefits will be reinstated effective August 1, 2013, ongoing.

DECISION AND ORDER


The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it (i) improperly closed Claimant's and his wife's MA benefits effective August 1, 2013, ongoing, and (ii) improperly closed Claimant's FAP benefits effective August 1, 2013, ongoing.

Accordingly, the Department's MA and FAP decisions are 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. Reinstatement of Claimant's and his wife's MA benefits case as of August 1, 2013, ongoing;

2. Reinstate Claimant's FAP benefits as of August 1, 2013, ongoing;
3. Initiate verification of Claimant's business ownership, if applicable and in accordance with Department policy;
4. Begin recalculating the FAP and MA budget for August 1, 2013, ongoing, in accordance with Department policy;
5. Issue supplements to Claimant for any FAP and MA benefits he was eligible to receive but did not from August 1, 2013, ongoing; and
6. Notify Claimant in writing of its FAP and MA decisions in accordance with Department policy.


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

Date Signed: November 4, 2013

Date Mailed: November 4, 2013

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.

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.

2013-68666/EJF

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]