

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-66111
Issue No(s): 2006, 3015
Case No.: [REDACTED]
Hearing Date: November 5, 2013
County: Macomb-12

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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.

Notice of a hearing was issued to the parties for a telephone hearing scheduled on October 3, 2013, to be held at the Macomb County DHS office. The October 3, 2013 hearing was not held. On October 4, 2013, an Order of Dismissal was issued. On October 11, 2013, the Claimant requested another hearing be scheduled. On October 15, 2013, an Order Vacating the Dismissal and Order to Schedule Matter for Hearing was issued.

After due notice, telephone hearing was held on November 5, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED] Eligibility Specialist.

ISSUES

1. Did the Department properly close the Claimant's Food Assistance Program (FAP) case because of excess income?
2. Did the Department properly deny the Claimant's Medicaid (MA) application because requested verifications were not returned?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 1, 2013, the Claimant applied for Medicaid for herself and her daughters and reported no one in the home has job income. (Exhibit A, pages 12-28)

2. The Claimant also had an open FAP case.
3. A wage match report showed the Claimant had employment earnings from the third quarter of 2012 through the second quarter of 2013. (Exhibit A, page 6)
4. On August 9, 2013, the Department issued a Notice of Case Action to the Claimant stating the FAP case would close September 1, 2013, because gross income exceeded the income limit. (Exhibit A, pages 1-2)
5. On August 9, 2013, the Department issued a Verification Checklist to the Claimant listing what proofs were needed by the due date of August 19, 2013. (Exhibit A, pages 3-4)
6. On August 9, 2013, the Department also sent a Verification of Employment form directly to the Claimant's employer listed on the wage match report. (Exhibit A, pages 6 and 8-9)
7. On August 19, 2013 or August 20, 2013, the Claimant called the Eligibility Specialist with questions, explanation, and requesting additional time to provide requested verifications but no extension was granted.
8. On August 19, 2013 or August 20, 2013, the Department denied the Claimant's Medicaid application.
9. On August 30, 2013, the Claimant filed a hearing request, protesting the Department's actions on the MA and FAP cases.

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.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. The Department worker must tell the client what verification is required, how to obtain it, and the due date. Verifications are considered timely if received by the date they are due. The client must obtain required verification, but the Department worker must assist if they need and request help. If neither the client nor the Department worker can obtain verification despite a reasonable effort, the Department worker is to use the best available information. If no evidence is available, the Department Worker is to use their best judgment. BAM 130

For all programs, before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. For FAP only, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM 130. The Department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

For MA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130.

On August 1, 2013, the Claimant applied for Medicaid and reported no one in the home has job income. (Exhibit A, pages 12-28) However, a wage match report showed the Claimant had employment earnings from the third quarter of 2012 through the second quarter of 2013. The earnings for the first and second quarters on 2013 totaled \$ [REDACTED] (Exhibit A, page 6)

Based on the earnings from the wage match report, the Department determined that the Claimant did not pass the gross income test to remain eligible for FAP. (Exhibit 1, pages 10-11) On August 9, 2013, the Department also issued a Notice of Case Action to the Claimant stating the FAP case would close September 1, 2013, because gross income exceeded the income limit. (Exhibit A, pages 1-2)

On August 9, 2013, the Department issued a Verification Checklist to the Claimant listing what proofs were needed by the due date of August 19, 2013, to determine eligibility for MA and FAP. (Exhibit A, pages 3-4) On August 9, 2013, the Department

also sent a Verification of Employment form directly to the Claimant's employer listed on the wage match report. (Exhibit A, pages 6 and 8-9)

The Eligibility Specialist testified that the MA application was denied on August 19, 2013 or August 20, 2013, because no verifications were received by the August 19, 2013 due date. However, both the Claimant and Eligibility Specialist testified that the Claimant contacted the Department on August 19, 2013 or August 20, 2013, with questions, an explanation addressing the income, and requesting additional time to provide requested verifications. The Eligibility Specialist found that the Claimant's explanation regarding the income did not make sense. The Eligibility Specialist also explained that no extension of the due date for the verifications was granted because the Claimant's FAP case was still open and extensions cannot be granted for FAP cases. The Eligibility Specialist stated that extensions for obtaining verifications can only be granted in MA cases for the Medical Review Team (MRT) packet. Further, the Eligibility Specialist noted that the employment verification form had already been sent directly to the employer and had not been returned at the time of the MA denial.

The Claimant testified that she has not worked at any job since March 2012. The Claimant asserted that the income from the wage match report was really based on her personal relationship with a man that was her former employer, rather than continued employment. The Claimant stated that this man gave her money through payroll and paid the taxes on it as if she were an employee, despite the Claimant no longer actually working there. The Claimant asserted that she was reporting this as other income to the Department rather than employment earnings. The Claimant also noted that she previously spoke with a Department Worker about whether she still qualified for FAP when she was receiving this income. However, the personal relationship with the prior employer ended and the Claimant has not received any money from him since June 2013. Accordingly, the Claimant was no longer receiving this income at the time she submitted the August 1, 2013, MA application and reported no income. The Claimant believes she qualifies for ongoing FAP because she did not have this income in July 2013 and subsequent months. The Claimant also stated she mailed some verifications to the Department that were post marked prior to the August 19, 2013 due date.

Lastly, the Claimant testified that the information on the Notice of Case Action that she failed to cooperate with the Office of Child Support is incorrect. The Claimant stated she has been in cooperation with the Office of Child Support since April 2013. The Eligibility Specialist confirmed that the Department is aware the Claimant is in compliance with the Office of Child Support and this is no longer an issue.

As cited above, the BAM 130 policy states verifications are considered timely if received by the date they are due. Accordingly, even if the Department had eventually received the mailed documents from the Claimant, a post mark of sending verifications prior to the due date is not sufficient for verifications to be considered timely when no extension was granted and they are received after the due date.

However, for MA cases, the policy allows for up to three extensions to be granted if client cannot provide the verification despite a reasonable effort. The policy does not limit this to only MA cases where information is needed for the MRT packet. BAM 130.

In this case, the verifications were being requested for the MA application, not just for ongoing FAP eligibility. Both the Claimant and the Eligibility Specialist testified the Claimant's call may have been on the August 19, 2013 due date. The Claimant explained her difficulties in getting current information from the former employer since the personal relationship ended. The Claimant was also trying to provide other types of verification to show she no longer had this income. If the Claimant called on or before the due date of the verification checklist requesting assistance obtaining verifications and an extension of the due date, the MA application should not have been denied for failure to provide verifications.

Additionally, the Case Action Notice of the FAP closure based on excess income was issued the same date the verification checklist was issued, August 9, 2013. Accordingly, the Department did not allow the Claimant a reasonable opportunity to resolve any discrepancy between her statements and information the other source provided before determining the FAP eligibility as required by BAM 130.

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 determined the Claimant's eligibility for FAP based on excess income prior to allowing her a reasonable opportunity to resolve any discrepancy between her statements and information the other source and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's August 1, 2013, MA application.

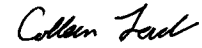
DECISION AND ORDER

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 and re-process the Claimant's August 1, 2013, MA application in accordance with Department policy.
2. Reinstate the Claimant's FAP case back to the September 1, 2013, effective date and re-determine eligibility in accordance with Department policy.

3. Issue the Claimant any supplement that she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 13, 2013

Date Mailed: November 13, 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.

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

2013-66111/CL

CL/las

cc:

