

**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.: 2013-67814
Issue No.: 1005; 2006; 3008
Case No.: ██████████
Hearing Date: November 21, 2013
County: Wayne (15)

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 November 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Specialist.

ISSUES

Did the Department properly close the Family Independence Program (FIP) benefits effective July 1, 2013, ongoing, due to her failure to comply with the verification requirements?

Did the Department properly close the Medical Assistance (MA) benefits effective July 1, 2013, ongoing, due to her failure to comply with the verification requirements?

Did the Department properly close the Food Assistance Program (FAP) benefits effective July 1, 2013, ongoing, due to her failure to comply with the verification 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 her group members were ongoing recipients of FAP, FIP, and MA benefits. See Exhibit 1.

2. On May 28, 2013, Claimant applied for State Emergency Relief (SER) assistance, in which she indicated she was homeless and also provided a mailing address. See Exhibit 1.
3. On May 31, 2013, the Department sent Claimant a Verification Checklist (VCL) and Verification of Employment, which indicated the documents were due back by June 10, 2013. See Exhibit 1.
4. Claimant never submitted the requested verifications.
5. On June 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that the FIP, MA, and FAP benefits would close effective July 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.
6. On September 6, 2013, Claimant filed a hearing request, protesting the FIP, FAP, and MA closure. See Exhibit 1.
7. On September 20, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on October 9, 2013. See Exhibit 2.
8. On October 9, 2013, Claimant also filed a hearing request, protesting the same closures.
9. On October 14, 2013, the MAHS sent Claimant an Order of Dismissal due to Claimant failing to arrive at her scheduled hearing. See Exhibit 2.
10. On October 31, 2013, Claimant also filed a hearing request, protesting the same closures.
11. On November 1, 2013, the Supervising Administrative Law Judge sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing. See Exhibit 2.
12. On November 5, 2013, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant for a hearing on November 21, 2013. See Exhibit 2.

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 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.

Preliminary matters

First, Claimant is disputing the FIP and FAP closures. See Exhibit 1. However, it is found that Claimant is also disputing her MA closure. A review of the request for hearing indicated that Claimant was disputing her case being closed. See Exhibit 1. Moreover, Claimant's hearing request is also attached to the Notice of Case Action that closed the MA benefits. See Exhibit 1. Thus, it is found that Claimant is also disputing the MA closure and it will be addressed in this hearing decision.

Second, it was also discovered that on October 9 and 31, 2013, Claimant filed two subsequent hearing requests, which protested the same benefit closures. Thus, this hearing decision will address Claimant's three hearing requests because they are disputing the same issues.

FAP, FIP, and MA benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5. This includes completion of necessary forms. BAM 105, p. 5.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105, p. 7. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 7. These include, but are not limited to, changes in: address and shelter cost changes that result from the move. BAM 105, p. 7.

For FIP and FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130 (May 2012), 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. 5.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification it requests. BAM 130, p. 5. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 5. 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. 6.

In this case, Claimant and her group members were ongoing recipients of FAP, FIP, and MA benefits. See Exhibit 1. On May 28, 2013, Claimant applied for SER assistance, in which she indicated she was homeless and also provided a mailing address. See Exhibit 1. On May 31, 2013, the Department testified that Child Protective Services (CPS) reported that Claimant had obtained employment. Thus, on May 31, 2013, the Department sent Claimant a VCL and Verification of Employment, which indicated the documents were due back by June 10, 2013. See Exhibit 1. The Department testified that it sent it to the mailing address reported in Claimant's SER application. Moreover, the Department presented a documentation record, which indicated that it confirmed the same address with CPS via telephone. See Exhibit 1. The VCL was to determine her eligibility for FIP, MA, and FAP benefits. See Exhibit 1. Specifically, the VCL requested verification of her driver's license (new address), verification of employment (DHS-38), household expenses, and group composition. See Exhibit 1. The Department never received the requested verifications. Thus, on June 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that the FIP, MA, and FAP benefits would close effective July 1, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant testified that she never received the VCL dated May 31, 2013. Claimant provided conflicting testimony if whether she resided at the address listed in the VCL at the time it was sent. Claimant testified that she eventually resided at the address, but only for six days. Furthermore, Claimant testified that she applied for the SER benefits because she knew she was going to stay at the apartment temporarily. See Exhibit 1. A review of the SER application indicated that Claimant applied for moving expenses and food. See Exhibit 1. Claimant testified that she notified the DHS caseworker that she does not have a place to stay and is she technically homeless. Claimant also testified that a DHS caseworker told her that her mail was being returned back to the DHS office. Claimant testified that she lived at the address on or around the second week of June 13, 2013. Claimant also testified that she left the address on June 18, 2013; however, she did not report the change to the Department. See BAM 105, p. 7.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant testified that she did not receive the VCL because she was not at that address when the request was sent. However, the Department provided credible evidence that it sent the VCL to the appropriate address. On May 28, 2013, Claimant applied for SER assistance, in which she indicated she was homeless and also provided a mailing

address. See Exhibit 1. It is noted that Claimant indicated that she was homeless; however, the Department sent the VCL to the mailing address that Claimant indicated on the application. The SER application is dated May 28, 2013 and the Department sent the VCL on May 31, 2013, which is only a three day difference. It is reasonable to conclude the Department was correct to rely on the mailing address indicated in the SER application and use that mailing address to send the DHS correspondence.

It should also be noted that the Notice of Case Action (dated June 12, 2013) was sent to a different address. See Exhibit 1. The address indicated in the Notice of Case Action was the actual local DHS office. The Department testified that it learned that Claimant was no longer residing at the address. Thus, the Department testified that it sent it to its own address. However, the Department presented an e-mail (dated June 12, 2013) from another DHS worker in which it indicated that Claimant moved in with her sister. See Exhibit 1. The e-mail also indicated that Claimant reported her new address. Based on this information, it would be reasonable to conclude that the Department should have sent the Notice of Case Action to the sister's address. However, the e-mail also stated that Claimant was notified about her prospective case closure. See Exhibit 1. This would have notified Claimant of the pending closures. Nevertheless, Claimant eventually received the Notice of Case Action as she did request a hearing within ninety days of the Notice of Case Action. See BAM 600 (February 2013), p. 4.

It should also be noted that the Notice of Case Action indicated that the FIP and MA programs closed due to an ineligible child. See Exhibit 1. However, the Department inferred that the case closures occurred because of Claimant's failure to comply with the verifications requirements.

Based on the foregoing information and evidence, the Department properly closed the FIP, MA, and FAP benefits effective July 1, 2013, ongoing, in accordance with Department policy. First, it is found that Claimant failed to rebut the presumption of proper mailing. The Department properly sent the VCL to the mailing address Claimant listed in the SER application. There is only a three day difference between the SER application and VCL and it was appropriate for the Department to send it to that address. Second, Claimant did not provide credible testimony that she did not receive the VCL. Claimant admitted that she did not report to the Department that she left the address on June 18, 2013. However, a DHS e-mail indicated that Claimant was living with her sister on June 12, 2013. See Exhibit 1. This evidence is contradictory to Claimant's assertion that she left on June 18, 2013. Claimant was unable to provide credible testimony of her proper mailing address and it was appropriate for the Department to rely on the SER application, which was also confirmed by the CPS report.

In summary, the Department sent the VCL to the appropriate address based on the documentation record and SER application that Claimant provided. It is the Claimant's obligation to report address changes. BAM 105, p. 7. Furthermore, Claimant must complete the necessary forms in determining her initial and ongoing eligibility. BAM 105, p. 5. Claimant failed to submit the necessary verifications and the Department

properly closed the FAP, FIP, and MA benefits in accordance with Department policy. BAM 130, pp. 5 and 6.

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 acted in accordance with Department policy when it properly closed the FAP, FIP, and MA benefits effective July 1, 2013, ongoing.

Accordingly, the Department's FAP, FIP, and MA decisions are AFFIRMED.



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

Date Signed: November 26, 2013

Date Mailed: November 26, 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

2013-67814/EJF

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]
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