

**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.: 2014-1157
Issue Nos.: 2018, 3019
Case No.: ██████████
Hearing Date: November 4, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on November 4, 2013, from Madison Heights, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases for failure to verify employment income?

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 MA and FAP.
2. On an unknown date, Claimant reported new employment.
3. On June 25, 2013, the Department sent Claimant a Verification of Employment for the employer to complete by July 5, 2013.
4. On July 11, 2013, the Department sent Claimant a Quick Note advising him that his MA and FAP cases would close without proof of income that was due on July 8, 2013.

5. On July 11, 2013, the Department sent Claimant a Verification Checklist requesting by July 22, 2013, verification of income through an employer statement, a DHS-38 Verification of Employment, or the last 30 days of check stubs or earnings statements.
6. On July 18, 2013, the Department sent Claimant a Quick Note advising him not to quit his job and informing him that he could submit pay stubs.
7. On July 24, 2013, the Department sent Claimant a Notice of Case Action closing his FAP case and his and his wife's MA cases effective September 1, 2013.
8. On September 20, 2013, Claimant filed a request for hearing disputing 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), 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, in a July 24, 2013, Notice of Case Action, the Department closed Claimant's FAP case and the MA cases for him and his wife because Claimant had failed to verify earned income. The Notice indicated that the FAP case was also closed due to failure to verify shelter expenses.

In this case, after Claimant reported new employment, the Department requested verification of income. Income is a consideration in a client's MA and FAP eligibility and benefit amount. See BEM 135 (January 2011), p. 2; BEM 110 (June 2013), pp. 1-2; BEM 647 (October 2012), p. 2; BEM 530 (October 2012), pp. 1-4; BEM 536 (January 2010), pp. 1-5; BEM 550 (February 2012), p. 1. Therefore, the Department properly requested income verification.

At the hearing, the Department presented evidence that on June 25, 2013, it sent the initial Verification of Employment (VOE) to Claimant for his employer to complete and

then extended the due date for income verification for nearly a month before notifying Claimant of the closure of his cases for failure to verify earned income. Claimant explained that he promptly provided the VOE the Department sent him on June 25, 2013, to his employer upon receipt, and, while the employer repeatedly told him that it would complete the VOE and return it to the Department, he failed to do so. Claimant credibly testified that he contacted his worker to advise her of the difficulties he was experiencing. The Quick Note the Department sent Claimant on July 18, 2013, admonishing him from quitting his job, is consistent with Claimant's testimony that he contacted his worker and, in his frustration, indicated he would quit his job because he could not resolve the issue of his employer's unwillingness to provide the requested verification. Although the Department also advised Claimant that he could submit pay stubs, at the hearing Claimant testified that he was paid cash by his employer and the employer did not provide any receipt or other paperwork evidencing its payments to him.

The Department may not terminate assistance because an employer or other source refuses to verify income. BEM 501 (December 2011), p. 7. When neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information, or, if no evidence is available, its best judgment. BAM 130 (May 2012), p. 3. Furthermore, before determining eligibility, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BEM 130, p. 6. Under the facts presented in this case, where Claimant was unable to obtain the requested verification from his employer and he advised his worker of his difficulties, the Department did not act in accordance with Department policy when it closed Claimant's FAP and MA cases for failure to verify earned income.

While the Notice of Case Action also indicates that the FAP case closed due to failure to verify shelter expenses, the Department did not present any evidence to show that Claimant reported a change of address or of shelter expenses or that it requested any verification of shelter expenses from Claimant. Therefore, the Department did not establish that it was entitled to verification of such expenses. See BAM 130 (May 2012), pp. 2-3; BAM 554 (October 2012), p. 11. Furthermore, shelter expenses that are not verified would not result in case closure. BAM 554, p. 11. Thus, to the extent the Department closed Claimant's FAP case due to failure to verify shelter expenses, the Department did not act in accordance with Department policy.

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 Claimant's FAP and MA cases effective September 1, 2013;
2. Determine Claimant's FAP and MA eligibility from September 1, 2013, ongoing based on the best available information;
3. Provide Claimant and his wife with MA coverage they are eligible to receive from September 1, 2013, ongoing;
4. Issue supplements to Claimant for any FAP benefits he is eligible to receive but did not from September 1, 2013, ongoing;
5. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 12, 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

2014-1157/ACE

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

ACE/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
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