

**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.: 2014-5700
Issue No.: 2006; 3014
Case No.: ██████████
Hearing Date: November 14, 2013
County: Wayne (35)

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 telephone hearing was held on November 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant and her husband's Medical Assistance (MA) benefits effective September 1, 2013, ongoing, due to a failure to comply with the verification requirements?

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits based on Claimant's failure to meet employment requirements without good cause?

FINDINGS OF FACT

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

1. Effective January 1, 2013, ongoing, Claimant was placed in non-cooperation and disqualified from her FAP group because she failed to meet employment requirements without good cause. See Exhibit 1.

2. However, Claimant was in compliance with the employment requirements since January 1, 2013, ongoing, and the Department, in error, disqualified the Claimant from her FAP group.
3. On July 1, 2013, the Department sent Claimant a Semi-Annual Contact Report, which was due back by August 1, 2013. Exhibit 1.
4. On July 9, 2013, Claimant submitted the Semi-Annual Contact Report.
5. On July 15, 2013, the Department sent Claimant a Verification Checklist (VCL) in regards to her FAP benefits, which was due back by July 25, 2013. Exhibit 1.
6. On July 18, 2013, the Department sent Claimant a VCL in regards to her MA benefits, which was due back by July 29, 2013. Exhibit 1.
7. Claimant failed to submit the requested verifications.
8. On July 31, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant and her husband that their MA benefits were denied effective September 1, 2013, ongoing, due to their failure to comply with the verification requirements. See Exhibit 1.
9. On October 11, 2013, Claimant filed a hearing request, disputing her FAP disqualification and the denial of the MA benefits. 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.

FAP benefits

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance applies to a client who is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. BEM 233B (January 2013), p. 1. For FAP only noncompliance, non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits. BEM 233B, p. 3.

Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. BEM 233B, p. 5. For the first occurrence, the Department disqualifies the person for one month or until compliance, whichever is longer. BEM 233B, p. 5. For a second or subsequent occurrence, the Department disqualifies the person for six months or until compliance, whichever is longer. BEM 233B, p. 5. Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. BEM 233B, p. 6. The Department investigates and determines good cause before deciding whether to impose a disqualification. BEM 233B, p. 6. Good cause reasons are listed in BEM 233B. See BEM 233B, pp. 6-7.

In this case, Claimant is arguing that her FAP group size should be four rather than three because she was never in non-compliance. Effective January 1, 2013, ongoing, Claimant was placed in non-cooperation and disqualified from her FAP group because she failed to meet employment requirements without good cause. See Exhibit 1. Specifically, Claimant was excluded from the group size of her household because she quit a job and did not have good cause. See Hearing Summary, Exhibit 1. However, it was discovered during the hearing that Claimant's previous worker erred in applying the non-compliance. The Department testified that Claimant did not quit her job, but that she was laid off. Thus, the Department testified that it erred in placing Claimant in non-cooperation and disqualifying her from the FAP group effective January 1, 2013, ongoing.

Based on the foregoing information and evidence, the Department improperly disqualified Claimant from her FAP group effective January 1, 2013, ongoing. Claimant was never in non-cooperation with the employment requirements for FAP benefits. BEM 233B states that noncompliance applies to a client who is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. BEM 233B, p. 1. Claimant did not fall under any of these non-compliance issues. Thus, the Department will be ordered to remove Claimant's non-compliance with employment requirements regarding her FAP benefits and the Department will apply a FAP group size of four effective January 1, 2013, ongoing.

MA benefits

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.

The Department sends a DHS-1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12-month benefit period. BAM 210 (July 2013), p. 8. A report is considered complete when all of the sections (including the signature section) on the DHS-1046 and the DHS 2240-A are answered completely and required verifications are returned by the client or client's authorized representative. BAM 210, p. 9.

The semi-annual contact report must be recorded, data collection updated and EDBC results certified in the system by the last day of the sixth month of the benefit period to affect benefits no later than the seventh month. BAM 210, p. 9. The contact is met by receipt of a completed DHS-1046 and required verifications. BAM 210, p. 9.

For MA cases, the Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 14; See also BAM 130 (July 2013), pp. 6-7. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 14. The Department gives only adequate notice for an application denial. BAM 130, p. 7. The Department sends a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, on July 1, 2013, the Department sent Claimant a Semi-Annual Contact Report, which was due back by August 1, 2013. Exhibit 1. On July 9, 2013, Claimant submitted the Semi-Annual Contact Report. On July 15, 2013, the Department sent Claimant a VCL in regards to her FAP benefits, which was due back by July 25, 2013. Exhibit 1. On July 18, 2013, the Department sent Claimant a VCL in regards to her MA benefits, which was due back by July 29, 2013. Exhibit 1. Claimant failed to submit the requested verifications. On July 31, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant and her husband that their MA benefits were denied effective September 1, 2013, ongoing, due to their failure to comply with the verification requirements. See Exhibit 1.

Claimant testified that she received the Semi-Annual Contact Report, but that she never received the VCL. Claimant testified that she was being evicted from her home on or around July 4, 2013. Claimant testified that she was able to stay in the home until July 29, 2013. However, Claimant testified that her mailbox was removed from her home on or around the time of her eviction. Claimant testified that her mail was being forwarded to the post office and/or returned to the sender. The Department testified that it did not receive the VCL as unreturned mail. Moreover, Claimant testified that she applied for State Emergency Relief (SER) assistance with rent to prevent eviction. A review of the SER application dated July 9, 2013, does indicate that she was seeking assistance for

rent to prevent eviction. See Exhibit 1. Moreover, Claimant notified the Department of an address change on August 1, 2013.

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 credibly testified that she did not receive the VCL due to her mail being undeliverable. Moreover, a review of the SER application indicated that she was seeking assistance for rent to prevent eviction on or around the same time she was not receiving her mail. See Exhibit 1. Based on this information, it is reasonable to conclude that Claimant never received the VCL because she was being evicted and unable to obtain any DHS correspondence. Therefore, Claimant has rebutted the presumption of proper mailing.

Based on the foregoing information and evidence, the Department improperly denied Claimant's and her husband's MA benefits effective September 1, 2013, ongoing, in accordance with Department policy. As previously stated, Claimant rebutted the presumption of proper mailing. Claimant provided credible testimony and evidence that she was evicted from her home at the time the VCL was sent and she was unable to obtain such documentation.

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 (i) it improperly disqualified Claimant from her FAP group effective January 1, 2013, ongoing; and (ii) the Department improperly denied Claimant's and her husband's MA benefits effective September 1, 2013, ongoing.

Accordingly, the Department's FAP and MA 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. Remove all of Claimant's non-cooperation FAP statuses and her FAP disqualification effective January 1, 2013, ongoing, in accordance with Department policy;
2. Recalculate Claimant's FAP budget reflecting a group composition of four effective January 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2013, ongoing;

4. Reinstate Claimant's and her husband's MA benefits as of September 1, 2013, ongoing;
5. Recalculate the MA budget for September 1, 2013, ongoing, in accordance with Department policy;
6. Issue supplements to Claimant and her husband for any MA benefits they were eligible to receive but did not from September 1, 2013, ongoing; and
7. 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 18, 2013

Date Mailed: November 18, 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:

2014-5700/EJF

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

EJF/cl

cc:

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