

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

IN THE MATTER OF:



Reg. No.: 20144767
Issue No.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: November 14, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) or "Medicaid" cases due to a failure to comply with the verification requirements?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was active for FAP and MA benefits under the Low Income Families (LIF) category.
2. On May 29, 2013, the Department mailed Claimant a redetermination packet regarding her MA case which included, among other things, an Appointment Notice (DHS-17). The notice scheduled a telephone appointment for June 14, 2013 at 8:30a.m. The Department was to initiate the telephone call. The notice also instructed Claimant to complete all forms in the redetermination packet and return them to the Department prior to the telephone appointment.

3. Claimant failed to turn in any document or contact the Department concerning the redetermination packet prior to the June 14, 2013 deadline.
4. On June 17, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her MA-LIF case effective July 1, 2013 due to failure to return the redetermination packet. Claimant's FAP case was not affected at this time.
5. On August 12, 2013, the Department received Claimant's redetermination form (DHS-1010) which indicated that Claimant received income from "child support, child care and manicuring." Claimant signed the DHS-1010 on August 12, 2013.
6. On August 12, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) for her FAP case, which sought verification of self-employment and child support. Claimant was required to submit these requested verifications by August 22, 2013.
7. On August 21, 2013, the Department mailed Claimant a second Verification Checklist (DHS-3503) for FAP, which again sought verification of self-employment as well as a social security card from Claimant's daughter. The DHS-3503 included a comment which requested verification of self-employment from "manicuring and child care."
8. The due date for both verification requests was September 3, 2013.
9. As of September 3, 2013, Claimant turned in all requested verifications except the self-employment verifications concerning her manicuring activities.
10. On September 25, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case effective September 1, 2013 due to failure to comply with the verification requirements.
11. On October 7, 2013, Claimant requested a hearing to challenge the Department's closure of her 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), and Department of Human Services Reference Tables Manual (RFT).

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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For FAP purposes, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. The Department sometimes will utilize a verification checklist (VCL), a DHS form, telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

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.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210.

An ex parte review¹ is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories; see BAM 115 and 220. BAM 210.

For purposes of MA, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210. Also, the redetermination month is 12 months from the date the most recent complete application was submitted. BAM 210. In an MA-Group 2 Persons Under 21 case, if a member will reach age 21 before the month the case is scheduled to be redetermined, an ex parte review should begin at least 90 days prior to the date the member turns 21; see BAM 220. BAM 210.

¹ A determination made by the department without the involvement of the recipient, the recipient's parents, spouse, authorized representative, guardian, or other members of the recipient's household. It is based on a review of all materials available to the specialist that may be found in the recipient's current Medicaid eligibility case file. See Bridge Program Glossary (BPG) page 24.

For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210. When a complete packet is received, the Department worker shall record the receipt in Bridges as soon as administratively possible. BAM 210. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210.

If the redetermination packet is not logged in by the negative action cutoff date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. BAM 210. For MA only, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210.

For MA, verifications are due the same date as the redetermination/review interview. BAM 210. When an interview is not required, verifications are due the date the packet is due. BAM 210. Bridges 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. If the 10th day falls on a weekend or holiday, the verification would not be due until the next business day. BAM 210. If there is no refusal to cooperate and the group complies by the 30th day, the Department will issue benefits within 30 days. Benefits are not prorated. BAM 210.

Here, the Department contends that it properly closed Claimant's MA case because Claimant did not turn in her redetermination packet before the due date. The Department asserts that it closed Claimant's FAP case because Claimant failed to timely and properly return requested verifications regarding her self-employment related to manicuring. Claimant, on the other hand, contends that she spoke with her Department caseworker on September 17, 2013 and was told that "everything was okay." She also stated that she attempted to call her caseworker and left voicemail message that were not returned. Claimant did not specifically address whether she turned in her self-employment verifications related to manicuring.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. There was extensive testimony offered by both parties in this matter. Much of the testimony did not relate to the salient issue concerning whether Claimant timely and properly returned all self-employment verifications relating to manicuring which were due on September 3, 2013. The fact that the Department worker

may have told Claimant, after the September 3, 2013 due date, that everything was okay, did not change the fact that Claimant missed the deadline. In fact, Claimant did not produce any self-employment verification relating to manicuring at any time. Claimant did not provide any justification for her failure to do so. Thus, the Department acted properly with regard to Claimant's FAP case.

With regard to the MA closure, the Department properly allowed Claimant's case to close because she failed to turn in the redetermination by the 30th day. Claimant's redetermination packet was due on June 5, 2013 and the 30th day was June 30, 2013. Here, Claimant turned in her redetermination packet in August, which was almost 2 months later. An ex parte review was not required under BAM 210 because the change resulted in closure due to ineligibility for all MA or Medicaid.

Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department properly closed Claimant's FAP and MA cases for failure to comply with the verification requirements.

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.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 15, 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:

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

CAP/aca

cc:

