

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20146198
Issue No(s): 2006, 3008
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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, telephone hearing was held on November 20, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly terminate Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits?

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 on-going recipient of Food Assistance Program (FAP) and Medical Assistance (MA) benefits.
2. On September 3, 2013, a New Hire Client Notice (DHS-4635) was mailed to Claimant after the Department received information indicating she had been hired by a staffing agency known as [REDACTED] ([REDACTED]).
3. Claimant was expected to verify her employment status with [REDACTED] by September 13, 2013.
4. On September 11, 2013, Claimant submitted a completed DHS-4635.

5. On September 16, 2013, a DHS-4635 was mailed to Claimant after the Department received information indicating she had been hired by a staffing agency known as [REDACTED].
6. Claimant was expected to verify her employment status with [REDACTED] by September 26, 2013.
7. On September 30, 2013, the Department mailed a Notice of Case Action (DHS-1605) notifying Claimant that her FAP and MA benefits were closed beginning November 1, 2013 because she “failed to verify or allow the Department to verify requested information.”
8. On October 8, 2013, the Department received Claimant’s request for hearing with regard to the closure of her FAP and MA benefits.

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.

In September 2013, Claimant applied for work as a substitute teacher with two staffing agencies who had begun placing teachers in Calhoun County. Each agency required her to submit proof (Driver’s License, Social Security card, etc.) that she was legally authorized to work. Shortly thereafter she received a notice from the Department that she needed to provide verification of her employment with [REDACTED], one of the agencies. At that time, she had not yet been placed by [REDACTED], but she had been placed by [REDACTED]. She completed the form, thinking she was verifying her employment with [REDACTED]. On September 16, 2013 the Department sent her another verification form, asking her to verify her employment with [REDACTED]. The Claimant testified that she did not receive the second DHS-4635. In light of the fact that she had complied with the previous request for verification, that testimony is credible and would explain her failure to return it.

Claimant did not actually go to work for █████ until October 2013. Meanwhile, the Department cancelled her MA and FAP benefits on September 30, 2013 because she had not returned verification of her employment at █████.

The evidence is persuasive that Claimant verified her employment with █████ by the due date, albeit she did so on the form requesting verification of her employment with █████. The Department had requested verification for both employers because a data connection between the Department and the Michigan Department of Treasury had indicated Claimant had accepted employment with both staffing agencies. When Claimant verified her employment, she indicated it was seasonal (which, in the experience of the Administrative Law Judge, is the nature of teaching), and that her pay varies on a daily basis, depending upon the school district to which she is assigned. She also indicated her hours worked would vary from day to day.

BAM 130 imposes a duty on the Department to work with the Claimant to obtain requested verification. “The client must obtain required verification, but you must assist if they need and request help.” “If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

Because the Claimant verified her employment with █████ on September 11, 2013, it is understandable that she would not realize the importance of responding to a request dated September 16, 2013 that she verify her employment with █████ yet again. This is by no means a suggestion that Claimants should feel free to disregard notices that might seem redundant. It would certainly have been better if she had actually responded to the first DHS-4635 by submitting information about her employment through █████. But, given the particular facts of this situation, the Administrative Law Judge believes that the Claimant used “reasonable effort” to verify her employment.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Claimant’s FAP and MA benefits.

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 retroactive to the September 30, 2013 closure date and re-determine eligibility in accordance with Department policy.

2. Issue the Claimant a supplement for any back benefits she may be due, in accordance with Department policy.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 27, 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

20146198/DTJ

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

DTJ/aca

cc:

