

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

IN THE MATTER OF:



Reg. No.: 20147399
Issue No(s): 2013, 3002
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Washtenaw

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, a telephone hearing was held on November 21, 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], Assistance Payments Worker, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly terminate Claimant's Medicaid (MA) benefits?

Did the Department properly terminate Claimant's Food Assistance Program (FAP) 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's daughter was an ongoing recipient of FAP and MA benefits.
2. Claimant had received Transitional Medicaid (TMA) assistance for a year.
3. On August 29, 2013, Claimant reported a change in her employment, and reported that she had enrolled in [REDACTED] ([REDACTED]).
4. On September 9, 2013, Claimant applied for FAP for herself.

5. Also on September 9, 2013, the Department mailed to Claimant a verification checklist requiring Claimant to verify bank accounts and her employment. Responses were due by September 19, 2013.
6. On September 9, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) indicating her TMA case was being closed on October 1, 2013.
7. On September 19, 2013, Claimant provided copies of two handwritten pay stubs reflecting her earnings from [REDACTED] for the pay periods of August 18, 2013 - August 31, 2013, and September 1, 2013 - September 14, 2013.
8. Claimant provided Verification of Employment (DHS-38) forms for her previous employment with [REDACTED] and her current employment with [REDACTED].
9. Claimant provided statements dated July 31, 2013 and August 30, 2013 from [REDACTED], showing her savings account activity and balances for the month of August 2013. She also provided an August 15, 2013 statement from [REDACTED] showing her checking account activity and balances for the preceding 30 days.
10. Claimant had previously reported she had an account with [REDACTED] but did not provide verification of that account.
11. On October 7, 2013, the Department mailed Claimant a DHS-1605 stating her Medicaid benefits for her daughter were continuing, but she was denied Medicaid for herself because she failed to verify that her job at [REDACTED] had ended and had not verified her bank account.
12. Claimant requested a hearing on October 17, 2013 to dispute the Department's actions with regard to her Medicaid case and FAP application.

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.

The Department testified that Claimant's applications for MA and FAP for herself were denied because she did not verify her employment with [REDACTED], and because she did not verify her account with [REDACTED]. The Claimant agreed that her MA and FAP applications were denied.

In reviewing the documents that were provided, a DHS-1605 from September 9, 2013 (pages 5-6 of Exhibit 1) shows that Claimant's TMA case was closed on October 1, 2013. The Department testified persuasively that Claimant's TMA case was closed because TMA is a transitional program that is only available for 12 months and Claimant had exhausted her benefits. The Department also testified that other medical assistance programs are available to assist claimants in making a transition over time, rather than suddenly losing all medical assistance. In another DHS-1605, dated October 7, 2013 (pages 7-8 of Exhibit 1), the Department reported Claimant had not verified that her job at [REDACTED] had ended, and therefore her Medicaid application was denied. The same document also stated that Claimant had not returned verification of earned income or a bank account statement.

Claimant testified that she provided verification of her employment at [REDACTED] by supplying two handwritten check stubs (page 28 of Exhibit 1). She provided a Verification of Employment (DHS-38) signed by [REDACTED] (pages 29-30 of Exhibit 1) reflecting her period of employment at [REDACTED] and another DHS-38 for [REDACTED], signed by [REDACTED] (pages 31-32), verifying her on-going employment as of July 10, 2013. Claimant testified that she had closed her [REDACTED] bank account more than a year prior.

From the testimony there does not appear to be any dispute that Claimant's MA and FAP benefits ended. A review of the available DHS-1605 Notices documents that Claimant's MA benefits had ended, but there is nothing in the record that documents her FAP benefits had ended. The Administrative Law Judge will accept as factual the undisputed testimony that adverse action occurred regarding both MA and FAP for purposes of this Decision.

TMA is available for only 12 months. BEM 111. The Department is to "complete a determination of eligibility for other MA categories and for TMA-Plus at least 40 days before the end of the 12-month TMA period." Because Claimant had exhausted her benefits, the Department appropriately terminated her TMA benefits. It did not, however, properly deny her application for other MA benefits. Their stated reason for denying her MA benefits was that she "failed to verify the job at [REDACTED] ending." It is unclear why the Department thought her employment at [REDACTED] was ending. Claimant had provided copies of paystubs (page 28 of Exhibit 1) showing income had continued. Claimant had previously provided verification from [REDACTED] that she was employed there. The Department erred in concluding Claimant had not properly verified her employment

at [REDACTED]. Regarding the account with [REDACTED], the Claimant testified credibly that she had closed that account a year before. She provided verification of her accounts at TCF Bank (pages 33-35 of Exhibit 1). On September 9, 2013, the Department instructed her (page 3-4 of Exhibit 1) to provide a "current statement from bank or financial institution." It did not specify the financial institution as including [REDACTED]. Per BAM 130, "Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source." Since her [REDACTED] account had been closed for a year or more, and since she provided statements for her current accounts, she should have been given a reasonable opportunity to supplement her responses if the Department were relying on internal records that it believed conflicted with the documents Claimant provided in response to the September 9, 2013 Verification Checklist (DHS-3503).

Inasmuch as the Department based its decision to deny Claimant's FAP application on the same facts that it used to deny her MA application, the Department erred in denying her MA application.

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 it closed Claimant's MA case and denied Claimant's FAP application effective October 1, 2013.

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. Redetermine Claimant's FAP and MA benefit eligibility, effective October 1, 2013.
2. To the extent required by policy, provide Claimant with retroactive and supplemental FAP and MA benefits.



Darryl T. Johnson
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

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:

