

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12224
Issue No(s): 2004, 3002
Case No.: [REDACTED]
Hearing Date: December 12, 2013
County: Livingston County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 12, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUES

- 1) Did the Department properly process the Claimant's Medicaid application?
- 2) Did the Department properly deny the Claimant's Food Assistance Program (FAP) application based on a failure to provide requested verifications?

FINDINGS OF FACT

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

1. On October 6, 2013, the Claimant applied for Medicaid and FAP.
2. On October 16, 2013, a Verification Checklist and a Quick Note were issued to the Claimant listing what verifications were needed to determine eligibility for the FAP program by the October 28, 2013 due date.
3. On the evening of October 24, 2013, the Claimant submitted verifications in the Department's drop box.
4. On October 31, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied based on failure to verify information necessary to determine eligibility for the program.

5. On November 4, 2013, the Claimant filed a request for hearing contesting the Department's action.

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 Michigan 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, the Department has a responsibility to determine eligibility and benefit amounts for all requested programs. BAM 105. For Medicaid, the general standard of promptness directs the Department to certify program approval or denial of the application within 45 days beginning the date the department receives an application/filing form, with minimum required information. The standard of promptness is reduced to 15 days for all pregnant Medicaid applicants and increased to 90 days when disability is an eligibility factor. BAM 115.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be determined based on their compliance date if they return required verifications. BAM

130. The Department must re-register the application if the client complies within 60 days of the application date. See BAM 115 & BAM 130.

In this case, the Eligibility Specialist confirmed that the Claimant applied for Medicaid as well as FAP on the October 6, 2013 online application. The Department has not provided any evidence that the Medicaid portion of the application was processed. The October 16, 2013 Verification Checklist only indicated that the requested information was needed to determine eligibility for FAP. (Exhibit A, page 9) The Notice of Case Action also only addressed the FAP portion of the application. (Exhibit A, pages 4-8) The evidence establishes that the Department failed to process the Medicaid portion of the Claimant's October 6, 2013 assistance application.

The Eligibility Specialist's initial testimony indicated that the Claimant did not provide any documentation in response to the October 16, 2013, Verification Checklist and Quick Note for the FAP portion of the application. The Eligibility Specialist stated that according to the Department's tracking system, other than the October 6, 2013, online application, the Claimant has not submitted anything to the Department since July. However, the Claimant provided credible detailed testimony that she submitted documentation in the Department's drop box the Thursday evening before the Monday due date. That would have been the evening of October 24, 2013. Further, during the telephone hearing proceedings, the Claimant played a voicemail the Eligibility Specialist had left the Claimant in response to the hearing request. In the voicemail, the Eligibility Specialist explained the basis of the denial action, including details addressing the specific verifications the Department received from the Claimant. The Eligibility Specialist then testified that she did not recall the phone call and indicated that the Department has lost the Claimant's case file. The Claimant asserted that she did provide one of the listed acceptable proofs for each requested verification. For example, the Claimant testified she submitted a DHS 38 Verification of Employment form. It is also unclear why some requested verifications were only listed on the Quick Note and not included on the Verification Checklist itself. The Department has not provided sufficient credible evidence to support the determination to deny the FAP portion of the Claimant's application based on a failure to submit requested verifications.

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 when it .
- did not act in accordance with Department policy when it failed to process the Medicaid portion of the Claimant's application.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it and when it denied FAP based on a failure to provide verifications.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

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. Re-instate the Claimant's October 6, 2013 application for FAP and Medicaid.
2. Re-determine eligibility for both FAP and Medicaid in accordance with Department policy.
3. Issue the Claimant any supplement that she may thereafter be due.

/s/

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2013

Date Mailed: December 16, 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.

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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

CL/hj

cc:

