

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-59705
Issue Nos.: 2018, 3000
Case No.: [REDACTED]
Hearing Date: August 26, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly close Claimant's Food Assistance Program (FAP) case effective January 1, 2013?
2. Did the Department properly close Claimant's Medical Assistance (MA) case effective August 1, 2013?

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 November 29, 2013, the Department sent Claimant a Notice of Case Action to the nursing home where she had been residing advising her that her FAP case would close effective January 1, 2013.
2. On July 10, 2013, the Department sent Claimant a Notice of Case Action closing her MA case because Claimant was not under 21 or 65 or over, blind, disabled, pregnant (or recently pregnant) or the caregiver of a minor child.

3. On July 22, 2013, Claimant filed a hearing request disputing the closure of her FAP and MA cases.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Additionally, Claimant requested a hearing contending that the Department had improperly closed her FAP and MA cases.

Closure of FAP Case

Claimant contended that that Department had improperly closed her FAP case effective December 31, 2012, and she was entitled to a FAP supplement for benefits she was denied from January 1, 2013, until July 9, 2013, when her FAP case was reinstated.

While a recipient of Department benefits who is aggrieved by a Department action is entitled to a hearing, the client must request the hearing within *90 calendar days from the date of the written notice of case action*. Mich Admin Code, R 400.903(1); BAM 600 (July 2013), p. 4 (emphasis added). In this case, the Department established that it sent Claimant a November 29, 2012, Notice of Case Action notifying her that her FAP case would close effective January 1, 2013. Claimant's hearing request disputing the closure of her FAP case was filed on July 22, 2013.

At the hearing, Claimant contended that she did not receive the November 29, 2012, Notice of Case Action because it was sent to the nursing home where she had been residing and she was released from the nursing home on November 29, 2012. However, the evidence established that Claimant advised the Department of her residence in the nursing home in May 2012, that the Department changed Claimant's mailing address to the nursing home at that time, and that Claimant never notified that Department that she had left the nursing home. Under these circumstances, the Department acted in accordance with Department policy when it sent the November 29,

2012, Notice of Case Action to Claimant at the nursing home address she had reported. See BAM 105 (March 2013), pp. 7-8 (requiring that a client report changes within ten days). Claimant also testified that she became aware of the closure of her FAP case on January 22, 2013. Nevertheless, she did not file a request for hearing concerning the closure of her FAP case until July 22, 2013.

Because Claimant's hearing request disputing the closure of her FAP case was filed on July 22, 2013, more than 90 days after the date of the Department's November 29, 2012, Notice of Case Action notifying Claimant of the closure of her FAP case, Claimant's hearing request was not timely filed and is, therefore, dismissed for lack of jurisdiction. BAM 600, p. 4.

Closure of MA Case

In her July 22, 2013, request for hearing, Claimant checked off that she was concerned about her MA case as well as her FAP case. At the hearing, the Department testified that it had not taken any negative action concerning Claimant's MA case as of the date the hearing request was filed but noted that Claimant's MA case was closed as of the hearing date. During the hearing, Claimant produced a July 10, 2013, Notice of Case Action that stated that her MA case was closing effective August 1, 2013, because she was not under 21 or 65 or over, blind, disabled, pregnant (or recently pregnant) or the caretaker of a minor child. The Department speculated that Claimant's case had closed because Claimant had failed to submit to a medical review after the disability decision of the State Hearing Review Team (SHRT) expired on July 31, 2013. However, the Department failed to present any evidence showing that it acted in accordance with Department policy when it closed Claimant's MA case for this reason or for any other reason. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case.

DECISION AND ORDER

With respect to Claimant's hearing request concerning her FAP case closure, because Claimant's hearing request was not timely filed, the request for hearing concerning the FAP case closure is hereby DISMISSED.

With respect to Claimant's hearing request concerning her MA case closure, the Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case.

Accordingly, the Department's MA decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's MA case effective August 1, 2013; and
2. Begin providing Claimant with MA coverage she was receiving for August 1, 2013, ongoing, in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 27, 2013

Date Mailed: August 27, 2013

NOTICE OF APPEAL: 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).

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.

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

ACE/pf

cc:

