

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-61626
Issue Nos.: 2006, 3008
Case No.: [REDACTED]
Hearing Date: October 2, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

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

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 ongoing recipient of MA and FAP.
2. On July 11, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting employment information by July 22, 2013.
3. When it did not receive a response from Claimant, the Department sent Claimant a July 23, 2013, Notice of Case Action closing the MA cases for Claimant, his wife and his minor child effective September 1, 2013, and closing Claimant's FAP case effective August 1, 2013.

4. On August 2, 2013, Claimant filed a request for hearing disputing the Department's actions.

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.

Additionally, the Department closed Claimant's FAP and MA cases because Claimant failed to verify employment. At the hearing, the Department presented the July 11, 2013, VCL sent to Claimant. Although Claimant denied receiving the VCL, he verified that the document was properly addressed and that he had no issues with receiving his mail. Therefore, Claimant failed to rebut the presumption that he received the properly addressed VCL sent to him in the Department's ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

When requesting verifications, the Department must tell the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. In this case, the VCL sent to Claimant asked him to provide additional information about "[e]mployment [u]nknown." The VCL does not identify what type of proofs would be required to verify the employment at issue or whose employment income was at issue. At the hearing, the Department could not identify what led it to conclude that there was employment income in the household, and initially the Department indicated that the income was Claimant's. During the course of the hearing, Claimant testified that he had not worked since 2000 but he indicated that his twenty-year-old son, who lived in his household, was employed, although the evidence did not clearly establish when he was employed. Although the Department is entitled to employment information concerning the son's employment if the son was a member of the FAP group, the VCL sent to Claimant in this case did not clearly identify what verifications were requested or that they were requested concerning Claimant's son. If the VCL concerned the son's employment, it is unclear why the MA cases for Claimant, his wife and his minor child were closed.

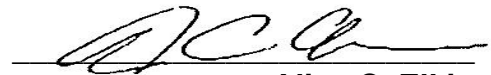
Because of the deficiencies in the VCL, the Department did not act in accordance with Department policy when it closed Claimant's FAP and MA cases.

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 case as of August 1, 2013;
2. Recalculate Claimant's FAP budget for August 1, 2013, ongoing, after properly requesting any required verifications;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from August 1, 2013, ongoing;
4. Reinstate Claimant's, his wife's and his minor son's MA cases effective September 1, 2013; and
5. Provide Claimant, his wife, and his son with MA coverage they are eligible to receive from September 1, 2013, ongoing.



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

Date Signed: October 8, 2013

Date Mailed: October 8, 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

ACE/pf

cc:

