

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-64059
Issue No.: 2018;3019
Case No.: ██████████
Hearing Date: October 14, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 14, 2013, from Detroit, Michigan. Claimant and his mother, ██████████, appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Program (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA AMP SDA CDC
benefits.
2. Claimant was required to submit requested verification by August 8, 2013.

3. On September 1, 2013, the Department
 - denied Claimant's application.
 - closed Claimant's cases.
 - reduced Claimant's benefits.
4. On August 12, 2013, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On August 20, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2013), p.1. To request verification of information, the Department sends a Verification Checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 3. MA and FAP clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp. 5-6. For FAP cases, the Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6. For MA cases, the Department sends a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, the Department testified that in connection with a redetermination, Claimant's eligibility to receive FAP and MA benefits was reviewed. (Exhibit 2). The

Department stated that it sent Claimant a VCL requesting that verification of bank account information be submitted by August 8, 2013. (Exhibit 3). The Department testified that because the bank statement submitted by Claimant was from August 2012 and not current, on August 12, 2013, it sent Claimant a Notice of Case Action, informing him that his FAP and MA cases would be closed effective September 1, 2013. (Exhibit 4). BAM 130, pp.5-7.

At the hearing, Claimant testified that he submitted the old bank statement by mistake and that with his hearing request, he provided the Department with the current bank statement that was requested. The Department confirmed Claimant's testimony and stated that after receiving the request for hearing and the correct verifications, the Department reinstated Claimant's MA case. A review of the eligibility summary provided establishes that although the Department stated that was reinstated, Claimant's MA case remained closed as of the hearing date. (Exhibit 1). The Department acknowledged that it acted in error when it failed to reinstate Claimant's MA case.

The Department additionally testified that after receiving the correct verifications, it also planned on reinstating Claimant's FAP case, however, after speaking with Claimant, it determined that additional verifications were needed as the Department believed that Claimant's mother should be added to his FAP case as a mandatory group member. The Department stated that because Claimant informed the Department that he stays with his mother a few times per week and that they purchase and prepare food together, it requested verification of Claimant's mother's income and assets. The Department testified that because Claimant's mother did not provide the requested verifications, it was unable to reinstate Claimant's FAP case.

At the hearing, Claimant and his mother refuted the Department's testimony. Claimant testified and his mother confirmed that they do not live together and that they both maintain separate homes. Claimant's mother credibly testified that she and her son do not prepare food together and that sometimes, she leaves him a plate of leftovers. BEM 212 provides that parents and children who live together and purchase and prepare food together are to be considered part of the same FAP group. BEM 212 (July 2013), pp.1-6. The Department did not present sufficient evidence to establish that Claimant and his mother live together for FAP purposes and verification of her income and assets should not be required prior to reinstating Claimant's FAP case.

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 and FAP cases based on a failure to verify, as the Department acknowledged that both of Claimant's cases should have been reinstated.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 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 effective September 1, 2013;
2. Issue supplements to Claimant for any FAP and MA benefits that he was entitled to receive but did not from September 1, 2013 ongoing; and
3. Notify Claimant in writing of the Department's decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 18, 2013

Date Mailed: October 21, 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.

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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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]