

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13933
Issue No(s): 2007, 3002
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: DHS SSPC-West

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 three way telephone hearing was held on January 7, 2014, 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 deny the Claimant's Food Assistance Program (FAP) application based on a failure to comply with verification requirements?
2. Did the Department properly close the Claimant's Medicaid case?
3. Did the Department properly deny the Claimant's Medicaid application?

FINDINGS OF FACT

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

1. The Claimant was a recipient of Medicaid benefits.
2. On October 19, 2013, the Claimant's Medicaid case closed.
3. On or about October 24, 2013, the Claimant re-applied for Medicaid.
4. The Department denied the Claimant's Medicaid application.
5. On October 21, 2013, the Claimant applied for FAP and an interview was completed.

6. October 22, 2013, a Verification Checklist was issued to the Claimant stating what verifications were needed by the November 1, 2013 due date.
7. On October 31, 2013, most of the requested verifications were received by the Department.
8. On November 8, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because verification of earned income was not returned for the Claimant. It was also noted that the Claimant failed to cooperate with child support requirements.
9. On November 15, 2013, the Claimant filed a request for hearing contesting the Department's denials of Medicaid and FAP.

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).

FAP

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.

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. Cooperation is a condition of eligibility for Medicaid. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The Department worker is to ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the primary worker from the CS icon or a support specialist can be reached by calling 1-866-540-0008 or 1-866-661-0005. BEM 255.

Additionally, 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. 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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. 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 FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

The Eligibility Specialist testified that an interview was completed with the Claimant for FAP on October 21, 2013. On October 22, 2013, a Verification Checklist was issued to the Claimant stating what verifications were needed by the November 1, 2013 due date. The list of needed verifications included additional information about complying with child support requirements and proof of wages, salaries, tips and commissions. The number to contact the Office of Child Support was listed. The listed acceptable proofs for wages, salaries, tips and commissions were: the last 30 days of check stubs or earning statements; a DHS-38 Verification of Employment form; or a DHS-3569 Agricultural Income Verification form. (Exhibit A, pages 6-7) The Eligibility Specialist testified that on October 31, 2013, most of the requested verifications were received by the Department, but proof of the October 2013 income was missing. The Claimant had only returned a Monetary Determination correspondence from Licensing and Regularity Affairs (LARA) regarding a claim for unemployment benefits, but not proof of the October 2013 earned income before the Claimant lost the employment. (See Exhibit A, pages 15-18) Accordingly, on November 8, 2013, a Notice of Case Action was issued to the Claimant stating FAP was denied because verification of earned income was not returned for the Claimant.

The Claimant testified she had understood that only the unemployment income would be utilized in calculating the FAP budget because this was the only ongoing income. The Eligibility Specialist explained that for ongoing benefits, only the unemployment income would be counted. However, for calculating the FAP budget for the month of application, October 2013, the final pay from that month is counted.

The November 8, 2013 Notice of Case Action also noted that the Claimant failed to cooperate with child support requirements. It is noted that cooperation with child support requirements is a condition of eligibility for FAP, but a disqualified member may indicate willingness to cooperate at any time. BEM 255. In the hearing request, the

Claimant asserts that she has contacted the Office of Child Support for all dependents. (Exhibit A, page 3) Even if it was determined that the Claimant had good cause for non-cooperation or that she was cooperative with child support requirements, the requested verifications still had to be provided by the due date listed on the Verification Checklist.

It appears the Claimant misunderstood from the interview what income would be utilized in determining FAP eligibility, specifically for October 2013 when there was a final earned income paycheck. However, the October 22, 2013 Verification Checklist, in part, requested proof of the earned income (wages, salaries, tips and commissions), explained what types of proofs could be submitted, and provided a due date of at least 10 calendar days. The Claimant has not provided the requested verification of earned income needed for determining FAP eligibility. Under the BAM 130 policy, the Department's determination to deny the Claimant's FAP application must be upheld.

Medicaid

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

The Eligibility Specialist was only prepared to address the FAP action for the January 7, 2013 telephone hearing proceeding. This ALJ understands that a different worker was involved in the termination of the Claimant's Medicaid case and the denial of the Claimant's subsequent Medicaid application. However, the Claimant clearly appealed the denial of Medicaid in the November 15, 2013 request for hearing. (Exhibit A, page 3) Upon reviewing the Department's computer system, the Eligibility Specialist's

testimony indicated that on October 19, 2013, the Claimant's Medicaid case closed. The Eligibility Specialist's testimony further indicated that on or about October 24, 2013, the Claimant re-applied for Medicaid and the Department denied the Claimant's Medicaid application. The available evidence establishes that the Medicaid actions were within 90 days of the Claimant's November 15, 2013 request for hearing. Accordingly, there was jurisdiction to review the Medicaid actions in this appeal. The Department failed to present evidence of the basis for the Medicaid closure and denial of the Claimant's subsequent Medicaid application. Accordingly, the Medicaid case actions must be reversed.

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 denied the Claimant's FAP application based on a failure to comply with verification requirements.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Medicaid case and when it denied the Claimant's Medicaid application.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED** IN PART with respect to FAP and **REVERSED** IN PART with respect to Medicaid.

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 the Claimant's Medicaid case retroactive to the October 19, 2013 closure date and re-determine eligibility in accordance with Department policy.
2. Issue notice of the Medicaid determination to the Claimant/Claimant's Authorized Representative.

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

Date Signed: January 8, 2014

Date Mailed: January 9, 2014

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

CL/hj

cc:

