

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

IN THE MATTER OF:

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

Reg. No.: 2014-16342
Issue Nos.: 2002, 3002, 4000
Case No.: ██████████
Hearing Date: January 9, 2014
County: Oakland (63-02)

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 January 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case and deny his Medical Assistance (MA) 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. Claimant was an ongoing recipient of FAP benefits.
2. On October 28, 2013, Claimant submitted an application for MA and State Disability Assistance (SDA) benefits.
3. On November 1, 2013, the Department sent Claimant a Notice of Case Action denying his SDA application and his MA application under the Ad Care program because his income exceeded the limit for eligibility under the respective programs.

4. On November 1, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of medical expenses and assets by November 12, 2013.
5. Claimant did not respond to the VCL.
6. On November 15, 2013, the Department sent Claimant a Notice of Case Action denying his MA application and closing his FAP case effective December 1, 2013, because he had failed to verify assets.

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, Claimant requested a hearing concerning the denial of his MA and SDA application and the closure of his FAP case. At the hearing, Claimant testified that he understood the reason the Department had denied his SDA application and wished to dismiss his request for hearing concerning that issue. The Department agreed to the dismissal. Based on the parties' agreement, Claimant's November 26, 2013, request for hearing concerning the Department's denial of his SDA application is dismissed. The hearing proceeded to address the Department's closure of Claimant's FAP case and denial of his MA application.

The Department also presented evidence showing that it denied Claimant's eligibility for MA coverage under the Ad Care program because he had excess income. The Ad-Care program provides full MA coverage to disabled clients who meet the net income limit. BEM 163 (October 1, 2010), p. 1. The net income limit for Ad-Care eligibility for an MA group with only a single member is \$958. RFT 242 (April 2013), p. 1; BEM 211 (July 2013), pp. 8-9. In this case, the report from the Single Online Query (SOLQ), the Department's data exchange with the Social Security Administration, showed that, at the time of application, Claimant's gross monthly Retirement, Survivors and Disability

Income (RSDI) was \$1,131 and the state paid his Part B Medicare premium. Because Claimant's net income exceeded the applicable \$958 Ad-Care limit, the Department acted in accordance with Department policy when it concluded that Claimant was not eligible for Ad-Care coverage.

The Department was also required to consider Claimant's eligibility for other coverage under other MA categories. BEM 105 (July 2013), p. 2. At the hearing, the Department testified that Claimant's FAP case was closed and his MA application under all MA categories was denied because he had failed to verify his bank account. Asset eligibility is required for disability-based MA coverage and FAP receipt. BEM 400 (October 2013), pp. 2-4. The Department established that it sent Claimant a November 1, 2013, VCL requesting verification of assets. Although Claimant denied receiving the VCL, he verified that the copy provided at the hearing was properly addressed to him. The Department testified that the original document was sent to Claimant by its central print office in Lansing. Under these circumstances, Claimant failed to rebut the presumption that he received a properly addressed document sent in the Department's ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

However, when the Department requests verification, it must tell the client what verification is required and how to obtain it. In this case, the VCL requested verification of medical expenses and "assets." The Department testified that Claimant's case closed because he did not provide verification of a checking account that he disclosed in his application. The Department's request for verification of "assets" is vague and does not clearly advise Claimant regarding the documentation he would be required to provide to verify the requested information. Thus, the Department's VCL is not in compliance with Department policy and the Department improperly closed Claimant's FAP case and denied his MA application on the basis of failure to verify.

At the hearing, there was testimony received that Claimant had a prior MA case that closed and the Department was requested to provide an eligibility summary showing MA coverage provided to Claimant. A review of the eligibility summary does not show any prior MA coverage being provided to Claimant. Furthermore, while the eligibility summary shows that the Department reinstated Claimant's FAP benefits for December 1, 2013, ongoing, there was no evidence presented during the hearing showing why the benefits were reinstated or to establish that they were not reinstated due to Claimant's timely hearing request. See BAM 600 (July 2013), p. 21.

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 FAP case and denied his MA application.

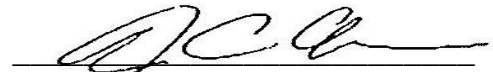
DECISION AND ORDER

Based on the parties' agreement, Claimant's November 26, 2013, request for hearing concerning the Department's denial of his SDA application is DISMISSED.

The Department's MA and FAP decisions are 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 effective December 1, 2013;
2. Reregister and reprocess Claimant's October 28, 2013, MA application;
3. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not from December 1, 2013, ongoing;
4. Provide Claimant with MA coverage he is eligible to receive from October 1, 2013, ongoing; and
5. Notify Claimant in writing of its MA decision.



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

Date Signed: January 13, 2014

Date Mailed: January 13, 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

ACE/pf

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