

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

IN THE MATTER OF:

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██████████████████
██████████████████

Reg. No.: 2014-20781
Issue No(s): 2001;3002
Case No.: ██████████
Hearing Date: January 30, 2014
County: Wayne (18)

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 January 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

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 FAP and MA benefits.
2. Claimant's eligibility to receive FAP benefits was reviewed.
3. On her Semi Annual Contact Report, Claimant reported that ██████████ the ██████████ of her child was now living with her and her child in the home. (Exhibit 1)
4. On December 9, 2013, the Department sent Claimant a Verification Checklist requesting that she submit the requested verifications by December 19, 2013. (Exhibit 3)

5. On December 20, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP case was closed effective December 1, 2013, based on a failure to return verification of [REDACTED] income and assets and that effective February 1, 2014, her MA case would be closing on the basis that she was not under 21, pregnant, or a caretaker of a minor child, over 65, blind or disabled. (Exhibit 4).

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).

MA

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.

In this case, Claimant requested a hearing to dispute the closure of her MA case. At the hearing, the Department testified that Claimant's MA case closed in error. The Department acknowledged that Claimant is a caretaker of a minor child and that the reason for the intended action as indicated on the Notice of Case Action was incorrect. Therefore, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it closed Claimant's MA case.

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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (October 2013), p 1. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, p.1. The Department will send a DHS 1046, Semi-Annual Contact Report, the beginning of the fifth month for cases assigned a 12 month benefits period. BAM 210, p.8. A report is considered complete when all of the sections are answered completely and all of the requested verifications are returned. BAM 210, p.9. FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p 2. If the client fails to return a complete DHS 1046 by the last day

of the sixth month, Bridges will automatically close the FAP case without sending a Notice of Case Action. BAM 210, p.11.

Additional verifications may be 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 which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, 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.

In this case, in connection with the information submitted on Claimant's Semi-Annual Contact Report, which indicate that [REDACTED] of Claimant's child was now living in the home, the Department sent Claimant a VCL requesting that verification of [REDACTED] income and asset information be submitted to the Department on December 19, 2013. (Exhibit 3). The Department stated that because it did not receive the verifications requested by the due date, it was not able to certify a new FAP benefit period for December 1, 2013 ongoing, and Claimant's FAP case automatically closed, although a Notice of Case Action was sent on December 20, 2013. (Exhibit 4).

At the hearing, Claimant confirmed that she received the VCL. Claimant testified that she called the Department to inform the Department that she would not be able to submit the requested information because she and [REDACTED] were not together and she did not have access to his information. Claimant stated that although they live together, they do not purchase and prepare meals together. The Department properly concluded, however, that [REDACTED] was a mandatory group member, because according to BEM 212, parents and their children under 22 years of age who live together must be included in the same FAP group. BEM 212 (October 2013), p.1. Claimant confirmed that she did not submit the requested verifications to the Department.

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 closed Claimant's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to FAP and REVERSED IN PART with respect to MA.

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 MA case effective the date of closure, ongoing;
2. Issue supplements to Claimant for any MA benefits that she was entitled to receive but did not from the date of closure ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: February 3, 2014

Date Mailed: February 4, 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

2014-20781/ZB

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]