

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

IN THE MATTER OF:



Reg. No.: 201420838
Issue No.: 1002; 3002
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (18)

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 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's friend. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's [REDACTED], 2013, application for Medical Assistance (MA) based on failure to verify?

Did the Department properly close Claimant's Food Assistance Program (FAP) case based on failure to verify?

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 [REDACTED], 2013, Claimant applied for MA assistance.
3. In her MA application, Claimant revealed that she had a bank account.

4. On [REDACTED], 2013, the Department sent Claimant a Verification Checklist (VCL) in connection with her MA and FAP eligibility requesting verification of her savings account by [REDACTED] 2013.
5. On [REDACTED] 2013, the Department sent Claimant a Notice of Case Action notifying her that, because she had failed to submit the requested verification of bank account, her MA application was denied and her FAP case would close effective [REDACTED] 2013.
6. On [REDACTED], 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 denied Claimant's [REDACTED], 2013, MA application and closed her FAP case effective [REDACTED], 2013, because Claimant had failed to verify her bank account.

The Department explained that, in processing Claimant's MA application, it requested verification of Claimant's checking account for purposes of establishing her asset eligibility. For MA and FAP cases, the Department must verify the value of countable assets at application, redetermination and when a change is reported. BEM 400 (December 2013), p. 56. Because Claimant filed an application for MA identifying that she had a checking account, the Department was required to request verification of the value of Claimant's checking account to determine her asset eligibility for MA. BAM 130 (July 2013), p. 1. Because asset eligibility is a condition of FAP eligibility, it follows that the Department's request for asset verification in connection with her MA application could affect her FAP eligibility. See BEM 400, p. 5.

In this case, the Department testified that it sent Claimant a VCL on [REDACTED], 2013, requesting a bank statement or other verification of the savings account by [REDACTED], 2013 but did not receive any verification of the account. Claimant responded that she did not receive the VCL. She confirmed that the copy admitted into evidence was properly addressed to her but stated that she had issues timely receiving her mail. However, because the Department sent the notice to Claimant's address of record and it was not made aware of any mail issues until well after the VCL was sent, the Department established that the notice was properly sent to Claimant in its ordinary course of business. Under these facts, Claimant has failed to rebut the presumption that she received the VCL. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Despite her testimony that she did not receive the VCL, Claimant testified that she nonetheless submitted a copy of her October bank statement to the Department shortly after submitting her [REDACTED], 2013 MA application because her worker had advised her during the interview that she would have to provide this information. During the hearing, Claimant testified that she submitted the statement at the local office's front window and signed a sign-in log between [REDACTED], 2013 and [REDACTED], 2013 showing that she submitted the document. The Department worker at the hearing was asked to review the sign-in log. She credibly testified that, with assistance of her supervisor, she had reviewed the log for [REDACTED], 2013 to [REDACTED], 2013, the VCL due date and did not find Claimant's signature on the log.

When verifications are not submitted by the VCL due date, the Department must deny a client's MA application. See BAM 130, p. 7. Because the evidence failed to establish that Claimant submitted the bank statement by the VCL due date, the Department acted in accordance with Department policy when it denied Claimant's MA application for failure to verify assets.

With respect to FAP cases, the Department must send a negative action notice when the time period for a verification to be returned has elapsed *and the client has not made a reasonable effort to provide it*. BEM 130, p. 6 (emphasis added). When the client complies with a request for information before the negative action date, the Department is required to remove the negative action. BAM 220 (July 2013), p. 12.

In this case, the negative action date for the [REDACTED], 2013 Notice of Case Action notifying Claimant of the pending closure of her FAP case was [REDACTED], 2013. Bridges Policy Glossary (July 2013), pp. 43-44. Claimant's witness testified that he went with Claimant to the credit union when she got a copy of her bank statement, drove her to the Department's local office right after obtaining the statement to submit it, and saw her submit it and sign the log. While Claimant did not submit the document between [REDACTED], 2013 and [REDACTED], 2013, her testimony, coupled with that of her witness, was sufficient to establish that she made a reasonable effort to submit the bank statement and she did in fact submit it to the Department before [REDACTED], 2013. Because Claimant submitted the statement before the negative action date, the

Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to verify assets.

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 Claimant's MA application but did not act 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 denial of Claimant's MA application and REVERSED IN PART with respect to closure of her FAP case.

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 [REDACTED], 2013;
2. Process her case for FAP asset-eligibility;
3. Issue benefits to Claimant for any FAP benefits she was eligible to receive but did not from [REDACTED], 2013 ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: February 3, 2014

Date Mailed: February 3, 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/tif

cc:

