

**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.: 2014-21121
Issue No(s): 2003; 3003
Case No.: ██████████
Hearing Date: February 3, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medicare Savings Program (MSP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits effective January 1, 2014, ongoing?

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, MA, and MSP benefits.
2. On November 12, 2013, the Department sent Claimant a redetermination, which was due back by December 3, 2013. See Exhibit 1.
3. On December 3, 2013, Claimant also had a telephone appointment scheduled with the Department. See Exhibit 1.
4. Claimant failed to submit the redetermination by the end of the benefit month (December 31, 2013).

5. On December 13, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MSP and MA benefits closed effective January 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1.
6. Effective January 1, 2014, ongoing, Claimant's FAP benefits also closed due to the failure to submit a completed redetermination.
7. On December 26, 2013, Claimant submitted a hearing request, protesting the MA/MSP and FAP case closures. See Exhibit 1.
8. On December 26, 2013, Claimant submitted a Social Security Administration (SSA) letter and bank statements.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1.

For FAP cases, 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 does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 2. For MA cases, 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.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 10. A DHS-1605 (Notice of Case Action) is not generated. BAM 210, p. 10. For MA cases, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210, p. 10.

When the Department conducts an interview, it obtains a complete redetermination/review packet from the client. See BAM 210, pp. 11-12.

In this case, Claimant was an ongoing recipient of FAP, MA, and MSP benefits. On November 12, 2013, the Department sent Claimant a redetermination, which was due back by December 3, 2013. See Exhibit 1. On December 3, 2013, Claimant also had a telephone appointment scheduled with the Department. See Exhibit 1. The Department testified that Claimant failed to submit the redetermination by the end of the benefit month (December 31, 2013). Thus, on December 13, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MSP and MA benefits closed effective January 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 1. Effective January 1, 2014, ongoing, Claimant's FAP benefits also closed due to the failure to submit a completed redetermination.

At the hearing, Claimant testified that she mailed the redetermination on or around the end of November 2013. The Department testified that it did not receive the redetermination. The Department presented a packet received document, which showed no redetermination received date for the FAP, MA, and MSP programs. See Exhibit 1. Nevertheless, Claimant testified that she did not receive a telephone appointment call on December 3, 2013. Thus, Claimant testified that she called her DHS caseworker on December 3, 2013 and left a voicemail. Claimant testified that she did not receive a phone call back. The Department was unsure if it received a voicemail, however, it testified that it would not conduct a telephone interview if no redetermination packet was submitted. On December 26, 2013, Claimant submitted a SSA letter and bank statements, which the Department did not dispute. However, the Department testified that no redetermination was submitted by the end of the benefit period (December 31, 2013).

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP, MA, and MSP benefits effective January 1, 2014, ongoing, in accordance with Department policy.

First, it is found that the Department rebutted the presumption of proper mailing. The Department provided credible evidence and testimony that it did not receive a completed redetermination. The Department presented a packet received document,

which showed no redetermination received date for the FAP, MA, and MSP programs. See Exhibit 1.

Second, it is found that Claimant failed to submit the redetermination before the end of the benefit period (December 31, 2013). Claimant did not provide evidence that she mailed the completed redetermination to the Department by the end of November 2013. Even though Claimant submitted a SSA letter and bank statements, she failed to submit a complete redetermination as required. See BAM 210, pp. 1-12. Ultimately, Claimant must complete the necessary forms to determine her ongoing eligibility. BAM 105, p. 6.

Because Claimant failed to submit a completed redetermination by the end of the benefit period (December 31, 2013), the Department acted in accordance with Department policy when it closed Claimant's FAP, MA, and MSP benefits effective January 1, 2014, ongoing. BAM 130, p. 6 and See BAM 210, pp. 1-12.

DECISION AND ORDER

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 properly closed Claimant's FAP, MA, and MSP benefits effective January 1, 2014, ongoing.

Accordingly, the Department's FAP, MA, and MSP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 5, 2014

Date Mailed: February 5, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]