

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20016
Issue No(s): 2003
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Macomb - 12

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 March 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and her friend, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits?

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 on-going MA recipient.
2. A Redetermination (Exhibit 1 Page 4) was mailed to Claimant on October 15, 2013, requiring Claimant to respond by November 1, 2013.
3. Claimant did not respond to the Redetermination.
4. On October 21, 2013, the Department mailed Claimant a Notice of Missed Interview (Exhibit 1 Page 5) that informed Claimant she had missed her "scheduled interview to apply for/Redetermine Food Assistance benefits." It also instructed her to call her specialist before November 9, 2013.
5. In a Notice of Case Action dated December 10, 2013 (Exhibit 1 Pages 6-7), Claimant was notified that her MA benefits would be closed beginning January 1, 2014 because she "failed to verify or allow the department to verify information necessary to determine eligibility for this program."

6. On December 20, 2013 Claimant requested a hearing.

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 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.

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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Redetermination was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline.

The Claimant testified that she is caring for an elderly woman with dementia, and the woman had been misplacing mail for approximately three months. Claimant testified that she found the Redetermination notice the day after she was supposed to have responded. However, the evidence establishes that, even after she discovered the misplaced Redetermination, Claimant did not make any effort to provide the Department with the information needed for a review of her on-going eligibility.

It is noted that the documents provided by the Department for the hearing made review more difficult than it needed to be. The Department provided only one page of the Redetermination – it did not include the three pages that the Claimant was actually required to complete and return. Also, the Notice of Missed Interview references FAP, not MA, and is dated before the deadline had passed for Claimant to respond to the MA Redetermination. Nonetheless, the Redetermination referenced the MA program, and it informed Claimant that her benefits could be cancelled or reduced if she did not respond timely. Since no negative action was taken for approximately 40 days after her response was due, and since she had sufficient opportunity to comply even after she discovered the Redetermination, the burden was on the Claimant to show that she made a reasonable effort to respond. She has not met that burden.

Because she did not comply by timely providing her verification, the Department properly closed her MA benefits.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions 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 MA benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 5, 2014

Date Mailed: March 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

DJT/las

cc:

