

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25111
Issue No(s): 2002, 3002
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Oakland - 02

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 telephone hearing was held on March 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Claimant's case for Food Assistance Program (FAP) and Adult Medical Program (AMP)?

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 applied for FAP and AMP benefits on November 22, 2013. (Exhibit 1 Pages 7-18.)
2. On January 2, 2014, the Department mailed a Verification Checklist to Claimant requiring him to respond by January 13 with "proof of value" of stocks/bonds or mutual funds, and a "statement from where you are receiving \$ [REDACTED] a week". (Exhibit 1 Pages 5-6.)
3. On January 17, 2014, the Department mailed a Notice of Case Action (NCA) (Exhibit 1 Pages 2-4) closing Claimant's FAP and AMP benefits because "Verification of Stocks (BEM 400), Unearned Income Payment Verification (BEM 503) was not returned . . ."

4. On January 27, 2014, Claimant filed a hearing request (Exhibit 1 Page 19), protesting the Department's actions and stating in part "I have 42 shares of Manulife Financial stock worth \$ [REDACTED] My mutual fund is worth \$ [REDACTED]"

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), and Department of Human Services Reference Tables Manual (RFT).

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. 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.

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."

Claimant testified that he did not receive the Verification Checklist. The Department used the address that the Claimant provided – and which he verified at the hearing. The Claimant has failed to rebut the presumption that he received the Notice. In common-law there is a presumption that letters have been received after being placed

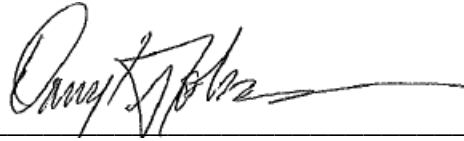
in the mail in the due course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Because he did not comply by providing the requisite verification, the Department properly closed his AMP and FAP benefits. While he might have been eligible to receive benefits had he provided the verification (Claimant has in fact subsequently reapplied and been granted AMP and FAP) because of the insignificant value of his unverified assets, the burden was on him to verify those values.

The Administrative Law Judge, based upon 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 terminated Claimant's Food Assistance Program and Adult Medical Program 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 7, 2014

Date Mailed: March 7, 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

DTJ/las

cc:

