

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-26246
Issue No(s): 1000; 2007; 3000; 4000
Case No.: [REDACTED]
Hearing Date: March 5, 2014
County: SSPC – EAST (98)

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 three-way telephone hearing was held on March 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's daughter/interpreter, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Department Manager, and [REDACTED], Assistant Payment Worker.

ISSUE

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on January 2, 2013?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 2, 2013, Claimant appeared at a previous administrative hearing (Registration #2012-71546), in which he disputed the closure of his Medical Assistance (MA) benefits. See Exhibit 1.
2. On February 5, 2013, the Administrative Law Judge (ALJ) sent a (D&O) in which it ordered the Department to reinstate Claimant's MA benefits retroactive to the date of negative action and initiate a review of Claimant's MA case for disability, as per the policies for the determination of disability with regard to an MA case (Registration #2012-71546). See Exhibit 1.

3. On February 10, 2014, Claimant and Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting his Food Assistance Program (FAP) benefits, cash benefits, and the Department's failure to process the D&O from the previous hearing regarding his MA benefits. See Exhibit 1.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matter

As a preliminary matter, on February 10, 2014, Claimant and Claimant's AHR filed a hearing request, protesting his FAP and cash benefits. See Exhibit 1. Shortly after commencement of the hearing, Claimant testified that he was no longer disputing his FAP and cash hearing request. Therefore, Claimant's FAP and cash hearing request is DISMISSED.

Prior Administrative Hearing

On January 2, 2013, Claimant appeared at a previous administrative hearing (Registration #2012-71546), in which he disputed the closure of his Medical Assistance (MA) benefits. See Exhibit 1. On February 5, 2013, the ALJ sent a D&O in which it ordered the Department to reinstate Claimant's MA benefits retroactive to the date of negative action and initiate a review of Claimant's MA case for disability, as per the policies for the determination of disability with regard to an MA case (Registration #2012-71546). See Exhibit 1. On February 10, 2014, Claimant and Claimant's AHR filed a hearing request, protesting the Department's failure to process the D&O from the previous hearing regarding his MA benefits. See Exhibit 1. Specifically, Claimant notated in his hearing request the ALJ's name and the date of the ruling. See Exhibit 1. It should be noted that Claimant appeared to put the incorrect year for the ruling, which was 2013 rather than 2014. See Exhibit 1. Nevertheless, Claimant indicated he has not received a MA decision. See Exhibit 1.

At the hearing, Claimant reiterated the same dispute as stated in his hearing request. Moreover, Claimant acknowledged that was his only issue that he was disputing at the hearing was the Department's failure to process the D&O from the previous hearing. Finally, Claimant testified that he never received any correspondence subsequent to the decision, i.e. written notice of case action.

Additionally, the Department was unable to provide evidence or testimony that the properly implemented and certified the D&O sent on February 5, 2013. Instead, the Department testified that its system was unable to retrieve that information. The Department testified that it only had records from July of 2013.

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (February 2013), p. 32. Some hearing decisions require implementation by the local office. BAM 600, p. 32. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 32. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 33. Complete and send the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. BAM 600, p. 33.

Based on the foregoing information and evidence, it is determined that the Department failed to implement and certify the D&O from the previous administrative hearing dated January 2, 2013 (Reg. #2012-71546). Claimant provided credible testimony that he never received any correspondence subsequent to the decision regarding his MA benefits, i.e. written notice of case action. Additionally, Claimant specifically requested in his hearing the Department's failure to process the D&O from the previous hearing. See Exhibit 1. Claimant even notated the date and the name of the ALJ. See Exhibit 1. This provided the Department with ample opportunity to present at the time of the hearing if the previous D&O was acted upon. However, as stated above, no evidence was presented at the hearing that the Department properly implemented and certified

the D&O. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it was unable to provide evidence or testimony that it properly implemented and certified the D&O sent on February 5, 2013 from the previous administrative hearing (Reg. #2012-71546). BAM 600, pp. 32-33.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to provide evidence that it properly implemented and certified the D&O sent on February 5, 2013 from the previous administrative hearing (Reg. #2012-71546).

Accordingly, the Department's MA decision is REVERSED.

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. Implement and certify the D&O dated February 5, 2013 from the previous administrative hearing (Reg. #2012-71546) in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP and Cash hearing request (dated February 10, 2014) is **DISMISSED**.


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

Date Signed: March 10, 2014

Date Mailed: March 10, 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/tlf

cc:

