

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

Reg. No.: 2014-27355  
Issue No(s): 2002; 3002  
Case No.: ██████████  
Hearing Date: April 7, 2014  
County: Wayne (15)

**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 April 7, 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 Food Assistance Program (FAP) and Medical Assistance (MA) benefits effective November 1, 2013, 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 and MA benefits. See Exhibit 1.
2. On September 16, 2013, the Department sent Claimant a redetermination (referenced only the FAP program), which was due back by October 4, 2013. See Exhibit 1.
3. On an unspecified date, Claimant submitted her redetermination.
4. On October 2, 2013, the Department sent Claimant a Verification Checklist (VCL) (referenced both the FAP and MA programs), which was due back by October 14, 2013. See Exhibit 1.

5. On October 2, 2013, the VCL requested verification of Claimant's wages and loss of employment. See Exhibit 1.
6. On October 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her Transitional Medicaid (TMA) would close effective November 1, 2013, ongoing, due to her not being under 21, pregnant, caretaker of a minor child, not over 65 (aged), blind, or disabled. See Exhibit 1.
7. On October 17, 2013, Claimant sent verification of her loss of employment. See Exhibit A.
8. On October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements and failure to participate in employment and/or self-sufficiency-related activities. See Exhibit 1.
9. On November 8, 2013, Claimant filed a hearing request, protesting her FAP and MA case closures. See Exhibit 1.
10. On February 26, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on March 12, 2014.
11. On March 17, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Granting Adjournment.
12. On March 21, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant for a hearing on April 7, 2014.

### **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.

**Preliminary matter**

During the hearing, it was discovered that the Department had a stamp date for her request for hearing dated February 7, 2014. See Exhibit 1. If Claimant's request for hearing was submitted on this date, her hearing request was not timely filed within ninety days of the Notices of Case Action and would be dismissed for lack of jurisdiction. See BAM 600 (March 2014), pp. 4-6. However, a review of Claimant's hearing request indicated a signature date of November 8, 2013. See Exhibit 1. Claimant testified that she submitted the hearing request on November 8, 2013 and two additional times after receiving no response to her original submission.

Based on the foregoing information, Claimant filed a timely hearing request within ninety days of the Notices of Case Action. The evidence presented that Claimant submitted her request for hearing on November 8, 2013. See Exhibit 1. As such, Claimant's hearing request is proper and the hearing proceeded with addressing the MA and FAP case closures. See BAM 600, pp. 4-6.

**FAP and MA benefits**

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.

The Department completes a redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1. 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 MA redetermination verifications deadlines, verifications are due the same date as the redetermination/review interview. BAM 210, p. 14. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. BAM 210, p. 14.

For FAP redetermination verifications deadlines, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 5. The Department sends 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. BAM 130, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130, p. 6. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, Claimant was an ongoing recipient of FAP and MA benefits. See Exhibit 1. On September 16, 2013, the Department sent Claimant a redetermination (referenced only the FAP program), which was due back by October 4, 2013. See Exhibit 1. On an unspecified date, Claimant submitted her redetermination. On October 2, 2013, the Department sent Claimant a VCL (referenced both the FAP and MA programs), which was due back by October 14, 2013. See Exhibit 1. On October 2, 2013, the VCL requested verification of Claimant's wages and loss of employment. See Exhibit 1. The Department testified that VCL was generated based on a redetermination. Moreover, it was unclear why the redetermination only referenced the FAP program, but the VCL referenced both the FAP and MA programs. See Exhibit 1.

Nevertheless, the Department testified that it never received the requested verifications. Thus, on October 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her TMA coverage would close effective November 1, 2013, ongoing, due to her not being under 21, pregnant, caretaker of a minor child, not over 65 (aged), blind, or disabled. See Exhibit 1. Also, on October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective November 1, 2013, ongoing, due to her failure to comply with the verification requirements and failure to participate in employment and/or self-sufficiency-related activities. See Exhibit 1.

It should be noted that based on the Department's testimony it appeared that the MA closure was based on the failure to comply with the verification requirements. However, the Notice of Case Action regarding the MA closure (dated October 2, 2013) did not mention such a denial reason. Moreover, it was unclear from the Department why the VCL and Notice of Case Action regarding the MA closure went out the same date. See Exhibit 1. In essence, the Department failed to give the Claimant 10 days to provide verifications in regards to her MA benefits.

At the hearing, Claimant testified that her employment ended in June 2013 and she first reported it to the Department in her redetermination. At first, Claimant testified that she received a loss of employment verification form in her daughter's name. Subsequently, Claimant testified that she contacted the Department three times and then finally spoke to a DHS caseworker. Claimant testified that the worker told her to obtain proof of loss of employment. Therefore, Claimant testified that she submitted the verifications on October 17, 2013, which is after the due date. Claimant provided a proof of her employer letter, which indicated her employment ended on June 29, 2013 and indicated her rate of pay. See Exhibit A. The Department testified that it never received this verification.

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39.

As to Claimant's MA case closure, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's MA benefits effective November 1, 2013, ongoing. BAM 600, pp. 36-39.

First, the Department's testimony appeared to indicate that the MA closure was due to the verification issue. However, it was unclear why the redetermination only referenced the FAP program, but the VCL referenced both the FAP and MA programs. See Exhibit 1. And if the VCL issue applied to Claimant's MA benefits, it was unclear from the Department why the VCL and Notice of Case Action regarding the MA closure went out the same date. See Exhibit 1. Even though Claimant submitted the verifications subsequent to the due date, the Department failed to provide Claimant 10 calendar days (or other time limit specified in policy) for the verifications in accordance with Department policy. BAM 130, p. 6 and BAM 210, p. 14.

Second, the Notice of Case Action regarding the MA closure (dated October 2, 2013) did not mention a denial reason regarding failure to provide verifications. See Exhibit 1. Thus, if Claimant's MA case closure was based on other factors, the Department failed to present evidence of why her MA benefits had closed for other reasons. As such, the Department will reinstate Claimant's MA benefits effective November 1, 2013, for the above reasons.

As to Claimant's FAP case closure, the Department improperly closed Claimant's FAP benefits effective November 1, 2013, ongoing. The evidence presented that Claimant submitted verification of her loss of employment on October 17, 2013. See Exhibit A. Moreover, the loss of employment also indicated Claimant's rate of pay. Thus, Claimant's sufficed her verification requirements for both wage verification and loss of employment. It should be noted that the VCL requested Claimant's last 30 days of check stubs; however, Claimant's last employment date was in June 2013. Because the Claimant submitted her verification before the end of the current benefit period (October 31, 2013), the Department improperly closed Claimant's FAP benefits effective November 1, 2013, ongoing. BAM 210, p. 14.

It should be noted that there was a second denial reason for the Claimant's FAP benefits. On October 31, 2013, the Notice of Case Action notified the Claimant that her FAP benefits closed also due to the failure to participate in employment and/or self-sufficiency-related activities. See Exhibit 1. However, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not

provide evidence for this closure reason. See BEM 233B (July 2013), pp. 1-12. Therefore, the Department will reinstate Claimant's FAP benefits effective November 1, 2013, for the above reasons. BAM 210, p. 14 and BAM 600, pp. 36-39.

**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 (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's MA benefits effective November 1, 2013, ongoing; and (ii) did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective November 1, 2013, ongoing.

Accordingly, the FAP and MA Department's decisions are 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. Reinstate Claimant's FAP and MA cases as of November 1, 2013;
2. Begin recalculating the FAP and MA budgets for November 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP and MA benefits she was eligible to receive but did not from November 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP and MA decision in accordance with Department policy.



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

Date Signed: April 9, 2014

Date Mailed: April 9, 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]  
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