

**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.: 14-002700
Issue No.: 2003; 3002
Case No.: ██████████
Hearing Date: June 19, 2014
County: OAKLAND-DISTRICT (3)

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 June 19, 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.

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective April 1, 2014, ongoing?

Did the Department properly close Claimant's Medical Assistance (MA) and Medicare Savings Program (MSP) benefits effective March 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. On December 16, 2013, the Department received verification of Claimant's change of address. See Exhibit 2, p. 12.
2. On January 14, 2014, the Department sent Claimant a redetermination to her previous address to review her eligibility for MA and MSP benefits and it was due back by February 3, 2014. See Exhibit 2, pp. 1-4.
3. The Department did not receive Claimant's redetermination by the due date or by the end of the benefit period (February 28, 2014).

4. On February 15, 2014, the Department sent Claimant a Notice of Case Action to her previous address notifying her that her MA and MSP benefits would close effective March 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 2, pp. 5-11.
5. On February 28, 2014, the Department sent Claimant a redetermination to her previous address to review her eligibility for FAP benefits and it was due back by March 17, 2014. See Exhibit 1, p. 1.
6. On March 18, 2014, Claimant submitted her redetermination and it indicated a change of address. See Exhibit 1, pp. 1-4.
7. On March 19, 2014, the Department sent Claimant a Verification Checklist (VCL) to her new address and requested verification of her assets. See Exhibit 1, pp. 5-6. The verifications were due back by March 31, 2014. See Exhibit 1, pp. 5-6.
8. The Department did not receive verification of Claimant's assets.
9. On April 1, 2014, the Department sent Claimant a Notice of Case Action to her new address notifying her that her FAP benefits closed effective April 1, 2014, ongoing, due to failure to comply with the verification requirements. See Exhibit 1, pp. 7-12.
10. On May 7, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 2, p. 13.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MA/MSP benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2014), p. 7. This includes completion of necessary forms. BAM 105, p. 7.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1. 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. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. 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.

In this case, on or around December 2, 2013, Claimant applied for State Emergency Relief (SER) assistance and was subsequently required to pay her obligation (co-payment) towards her rent. On December 16, 2013, the Department received verification of Claimant's obligation towards her move-in cost and also included a change of address. See Exhibit 2, p. 12.

On January 14, 2014, the Department sent Claimant a redetermination to her previous address to review her eligibility for MA and MSP benefits and it was due back by February 3, 2014. See Exhibit 2, pp. 1-4. The Department did not receive Claimant's redetermination by the due date or by the end of the benefit period (February 28, 2014). On February 15, 2014, the Department sent Claimant a Notice of Case Action to her previous address notifying her that her MA and MSP benefits would close effective March 1, 2014, ongoing, due to her failure to submit a completed redetermination. See Exhibit 2, pp. 5-11.

At the hearing, Claimant testified that she never received the Notice of Case Action dated February 15, 2014 (regarding the MA/MSP closure notice). Claimant testified that she moved into her current residence on December 16, 2013. It should be noted that Claimant did submit her redetermination regarding her FAP benefits and that redetermination was sent to Claimant's previous address. Thus, it is unclear how Claimant was able to submit her FAP redetermination and not her MA/MSP redetermination. Nevertheless, the Department received verification of Claimant's change of address from the landlord and failed to update the change in accordance with Department policy. The Department testified that the documentation was sent via central print and no unreturned mail was received.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Other changes must be reported within 10 days after the client is aware of them. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 9. For FAP cases, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6.

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA/MSP benefits effective March 1, 2014, ongoing. Even though it is unclear how Claimant submitted her FAP redetermination and that was sent to her previous residence, the Department still failed to properly send the MA/MSP redetermination to the proper address. The evidence presented that Claimant's landlord reported her new address on December 16, 2013. See Exhibit 2, p. 12. Subsequent to the change of address, the Department still sent Claimant's MA/MSP redetermination to the previous address on January 14, 2014. The Department failed to update and act on Claimant's reported change (address) in accordance with Department policy. See BAM 105, p. 9 and BAM 220, p. 6. This resulted in the MA/MSP redetermination and Notice of Case Action (dated February 15, 2014) being sent to the improper address. As such, the Department will reinstate Claimant's MA/MSP benefits effective March 1, 2014, ongoing. See BAM 105, p. 9 and BAM 220, p. 6.

FAP benefits

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 (April 2014), p. 6. 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 FAP redeterminations, 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.

In this case, on February 28, 2014, the Department sent Claimant a redetermination to her previous address to review her eligibility for FAP benefits and it was due back by March 17, 2014. See Exhibit 1, p. 1. On March 18, 2014, Claimant submitted her redetermination and it indicated a change of address. See Exhibit 1, pp. 1-4. As stated above, it was unclear how Claimant submitted the FAP redetermination because it was also sent to her previous address. Nonetheless, on March 19, 2014, the Department sent Claimant a VCL to her new address and requested verification of her assets. See Exhibit 1, pp. 5-6. The verifications were due back by March 31, 2014. See Exhibit 1, pp. 5-6. The Department testified that it did not receive verification of Claimant's assets. On April 1, 2014, the Department sent Claimant a Notice of Case Action to her new address notifying her that her FAP benefits closed effective April 1, 2014, ongoing, due to failure to comply with the verification requirements. See Exhibit 1, pp. 7-12.

At the hearing, Claimant did not dispute that she received the Notice of Case Action dated April 1, 2014. However, Claimant testified that she did not receive the VCL dated March 19, 2014. Claimant testified that she does have issues with her mail correspondence at her current residence. Claimant testified that she has personally observed her mail carrier not deliver the mail. Moreover, on or around April/May 2014, Claimant filed a complaint with the local post office regarding the mail carrier. Claimant testified that a supervisor from the post office contacted her indicating the mail carrier had past complaints. The Department testified that the VCL was sent via central print and no unreturned mail was received.

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 improperly closed Claimant's FAP benefits effective April 1, 2014, ongoing. It is found that Claimant rebutted the presumption of proper mailing. Claimant credibly testified that she did not receive the VCL dated March 19, 2014. Claimant credibly testified that she filed a complaint with the local post office and has ongoing issues with the delivery of her mail correspondence. Because Claimant rebutted the presumption of proper mailing, the Claimant never received the VCL dated March 19, 2014, in order to provide the necessary asset verifications.

For the reasons stated above, the Department did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective April 1, 2014, ongoing. BAM 130, p. 6 and BAM 210, p. 14.

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 did not act in accordance with Department policy when it (i) improperly closed Claimant's MA/MSP benefits effective March 1, 2014, ongoing; (ii) and improperly closed Claimant's FAP benefits effective April 1, 2014.

Accordingly, the Department's MA/MSP and FAP 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. Reinstate Claimant's MSP and MA benefits as of March 1, 2014;

2. Begin recalculating the MSP and MA budgets for March 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MSP and MA benefits she was eligible to receive but did not from March 1, 2014, ongoing;
4. Reinstate Claimant's FAP case as of April 1, 2014;
5. Begin recalculating the FAP budget for April 1, 2014, ongoing, in accordance with Department policy;
6. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 1, 2014, ongoing; and
7. Notify Claimant in writing of its MSP/MA and FAP decision in accordance with Department policy.



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

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

EJF/cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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;

