

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002609
Issue No.: 2002, 3002
Case No.: [REDACTED]
Hearing Date: July 15, 2014
County: Oakland- 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 July 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included attorney [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Attorney General [REDACTED], [REDACTED], and [REDACTED].

ISSUE

Did the Department properly close the Claimant's benefits for failure to provide the Department with information necessary to determine continued eligibility to receive 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. The Claimant was an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient.
2. On March 14, 2014, the Claimant submitted an application for Medicare Savings Program benefits.
3. On April 15, 2014, the Department sent the Claimant a Verification Checklist (DHS-3503), requesting verification of a home rent expense, and a checking account by April 25, 2014.
4. On April 30, 2014, the Department notified the Claimant that it would close her Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

5. On May 9, 2014, the Department received the Claimant's request for a hearing, protesting the closure of her Medical Assistance (MA) and Food Assistance Program (FAP), and the denial of her Medicare Savings Program benefits.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (October 1, 2013), pp 1-7.

On March 14, 2014, the Claimant submitted an application for Medicare Savings Program benefits, and was an ongoing Medical Assistance (MA) and Food Assistance Program (FAP) recipient. The Department reviewed the Claimant's eligibility for benefits and sent the Claimant a Verification Checklist (DHS-3503) requesting that verification of home rent and a checking account be provided by April 25, 2014. The Department received verification of home rent on April 23, 2014, but when verification of the checking account was not received as of April 30, 2014, the Department sent the Claimant notification that the Claimant's application for Medicare Savings Program benefits had been denied, and Medical Assistance (MA) and Food Assistance Program (FAP) benefits would be closed effective June 1, 2014.

A witness testified on behalf of the Claimant that he assisted the preparation of the Claimant's application for assistance. The witness testified that it is his regular business practice to submit verification of all countable assets along with the application for benefits. The witness testified that to the best of his knowledge he provided the Department with verification of the Claimant's checking account along with the application for Medicare Savings Program benefits and that he did not believe that there was any need for further verification of assets in response to the April 15, 2014, Verification Checklist (DHS-3503). A copy of a checking account statement prepared on March 12, 2014, was provided as evidence in support of the claim that asset verification had been provided along with the application for benefits.

The Department will sent a negative action 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. Department of Human Services Bridges Administrative Manual (BAM) 130 (April 1, 2014).

The term "burden of proof" encompasses two separate meanings. One of these meanings is the burden of persuasion or the risk of nonpersuasion. The other is the risk of going forward or the risk of nonproduction. The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually on the party who has pleaded the existence of the fact, but..., the burden may shift to the adversary when the pleader has discharged [its] initial duty. The burden of producing evidence is a critical mechanism[.] The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced. *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich167; 405 NW2d 88 (1987), quoting *McCormick, Evidence* (3d ed), Sec. 336, p. 946.

The Department has provided substantial evidence that it properly applied its policies to the Claimant's circumstances when it closed the Claimant's benefits based on a lack of verification documents that were required to determine continued eligibility to receive benefits. The Department provided the Claimant with adequate and timely notice of what was required to receive benefits and benefits were terminated when this information was not provided in a timely manner.

The Claimant does not dispute receiving the April 15, 2014, Verification Checklist (DHS-3503), but argues that it this request was redundant since the asset verifications had been provided on March 14, 2014.

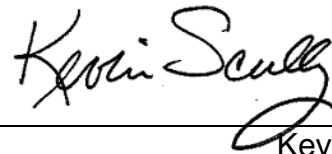
The Claimant has the burden of establishing eligibility to receive benefits. The evidence does not support a finding that any inquiries were made as to why the Department was requesting verification of assets on March 14, 2014, or that any requests for an extension to this deadline were made.

This Administrative Law Judge finds that the Claimant did not make a reasonable attempt to provide the Department with the information necessary for the Department to determine eligibility to receive benefits, and has therefore failed to establish eligibility to receive benefits.

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 acted in accordance with Department policy when it closed the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) benefits, and denied the Claimant's request for Medicare Savings Program benefits.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/21/2014**

Date Mailed: **7/21/2014**

KS/las

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;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

