

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004075
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: JULY 10, 2014
County: WAYNE-DISTRICT 41

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator, and [REDACTED], Eligibility Specialist. Department backup Hearing Facilitator [REDACTED] observed for training purposes.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases effective April 30, 2014?

Did the Department properly deny Claimant's May 2, 2014 FAP and MA application?

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.
2. On April 3, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification by April 14, 2014 of unearned income reported by the Internal Revenue Service.
3. Claimant did not respond to the VCL.
4. Claimant's FAP and MA cases closed April 30, 2014.

5. On May 2, 2014, Claimant applied for FAP and MA, and the Department had him complete another application for MA.
6. On May 5, 2014, the Department sent Claimant a Health Care Coverage Supplemental Questionnaire (HCC Questionnaire) requesting that Respondent submit the completed application by May 15, 2014.
7. Claimant did not submit the HCC Questionnaire by the due date.
8. On May 19, 2014, Claimant submitted to the Department a money market statement showing that he was holding funds in excess of \$6000 in trust for his child.
9. On May 20, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (HCC Notice) notifying him that his MA application was denied because he failed to return the HCC Questionnaire.
10. On May 30, 2014, Claimant requested a hearing concerning the closure of his FAP and MA cases and denial of his FAP and MA applications.

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.

Additionally, Claimant requested a hearing concerning the closure of his FAP and MA cases and the denial of his subsequent FAP and MA application.

Closure of FAP and MA Cases

The Department explained that Claimant's FAP and MA cases were closed effective April 30, 2014 because Claimant had failed to respond to the VCL concerning his unearned income that the Department had discovered through an IRS data exchange.

The IRS Unearned Income Match compares Department recipient data with unearned income reported to the IRS from sources such as bank account interest, lottery winnings and government subsidies. BAM 803 (December 2013), p. 2. When the data exchange results in a recipient match, active Department clients are sent a DHS- 4487, Unearned Income Notice. BAM 803, p. 2. The Department credibly testified that it sent Claimant a VCL requesting verification of the unearned income and did not receive a response. Although Claimant denied receiving any VCL concerning unearned income, the Department credibly testified that Claimant brought a copy of the VCL when he met with his worker in connection with the case closures. Under these facts, the Department established that it acted in accordance with Department policy when it closed Claimant's FAP and MA cases for failure to verify the unearned income. BAM 803, p. 4; BAM 130 (April 2014), pp. 6-7.

Denial of Claimant's MA Application

After his FAP and MA cases closed, Claimant reapplied for both FAP and MA on May 2, 2014. The Department testified that Claimant's MA application was denied because he failed to submit the completed HCC Questionnaire. Although Claimant testified that he did complete the document, it appears that he completed the document at the June 16, 2014 prehearing conference at which time he completed another MA application as well and his MA coverage was activated as of June 1, 2014. The only issue with respect to Claimant's MA case is the lack of coverage for May 2014.

Department policy requires that, to apply for all MA categories, in most instances a client must submit a DCH-1426, Application for Health Coverage and Help Paying Costs. BAM 110 (January 2014), pp. 1, 4; BAM 115 (March 2014), p. 1. While the Department referenced BAM 815 and BEM 260 in support of its position that an HCC Questionnaire had to be completed as a condition of MA eligibility, neither policy referenced requires the completion of an HCC Questionnaire. While Department policy allows the Department to request additional verifications if an incomplete application is submitted, the Department presented no evidence that the MA application Claimant submitted was incomplete. See BAM 115, p. 5. In fact, the Department was unable to identify any information required in the HCC Questionnaire that was not available in the initial MA application Claimant submitted. Under the facts presented, the Department has failed to satisfy its burden of showing that it acted in accordance with Department when it denied Claimant's MA application for failure to complete the HCC Questionnaire.

Denial of Claimant's FAP Application

The Department testified that it denied Claimant's May 2, 2014 FAP application because the value of his assets exceed the \$5000 FAP asset limit. BEM 400 (February 2014), p. 5. A checking account is an asset for FAP purposes and the value of the account is the lowest balance in amount of money in the account BEM 400, pp. 14, 15. However, to be countable, the account must be available, meaning that the client has the legal right to use or dispose of the asset. BEM 400, p. 8. An asset is unavailable if

an owner cannot sell or spend his share of an asset (i) without another owner's consent, and (ii) the other owner is not in the asset group, and (iii) the other owner refuses consent. BEM 400, p. 10. Department policy for joint cash accounts allowing a person to claim and verify less than full ownership of the account does not apply to the FAP program. BEM 400, p. 11.

In this case, the asset at issue is a money market savings account that was held by Claimant in trust for his minor child. Claimant testified that the funds in the account were funds left by his mother at her death in 2007 to his child and that he opened the account for his child in 2007 and deposited the funds at that time. While he contended that he did not have the right to access the funds, he acknowledged that he was able to move the funds in the account to another account with his sister holding the funds in trust for the minor child. Because Claimant could have used the funds without the child's consent, the funds were available to Claimant. Under these circumstances, the Department acted in accordance with Department policy when it considered the value of the funds in the account in determining Claimant's FAP eligibility. Because the value of the account exceeded \$5000, the Department properly denied Claimant's FAP application.

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 Claimant's FAP and MA cases effective April 30, 2014 and denied the May 2, 2014 FAP application but did not act in accordance with Department policy when it denied Claimant's May 2, 2014 MA application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's FAP and MA cases effective April 30, 2014 and denial of the May 2, 2014 FAP application and REVERSED IN PART with respect to denial of Claimant's May 2, 2014 MA application.

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 and reprocess Claimant's May 2, 2014 MA application;
2. Provide Claimant with MA coverage he is eligible to receive under the May 2, 2014 application ongoing; and

3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **7/14/2014**

Date Mailed: **7/16/2014**

ACE / tlf

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:

