

**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.: 14-004843
Issue No.: 2002;3002
Case No.: ██████████
Hearing Date: July 24, 2014
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases based on a failure to verify requested information?

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 May 22, 2014, the Department sent Claimant a Verification Checklist instructing him to submit requested verifications by June 2, 2014. (Exhibit 2)
3. On June 2, 2014, Claimant submitted a 2010 W2 in response to the Department's request for verifications. (Exhibit 3)
4. On June 2, 2014, the Department sent Claimant a Notice of Case Action and a Health Care Coverage Determination Notice informing him that effective July 1, 2014, his FAP and MA cases would be closed on the basis that he failed to verify

or allow the Department to verify information necessary to determine eligibility for the programs. (Exhibit 4)

5. On June 10, 2014, Claimant submitted a hearing request disputing the Department's actions.

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, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a 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. 7.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, p.6. If the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to three times. BAM 130, p. 6. Verifications are considered to be timely if received by the date they are due. BAM 130, p.46 The Department will send a negative 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, the Department testified that in connection with a redetermination, it became aware through a consolidated inquiry and work number that Claimant received unearned income from long term disability from his previous employment with ██████████ ██████████ in the amount of about \$78 for the fourth quarter of 2013. The Department stated that it sent Claimant a VCL on May 22, 2014, instructing him to submit additional information about his long term disability. (Exhibit 2). The Department received a 2010 W2 from Claimant on June 2, 2014, showing \$79.73 in wages, which it found insufficient and sent Claimant Notice of the case closures. (Exhibits 3 and 4).

At the hearing, Claimant confirmed that he received the VCL and stated that he had not been receiving any income from long term disability for many years but that he receives a yearly retirement payment. Claimant testified that he did not know what verifications were being requested from him and that he contacted the Department to inquire about the VCL and to request additional time to retrieve the requested information. The Department confirmed that it was informed by Claimant that he was not receiving long term disability payments. Claimant stated that on June 2, 2014, he submitted all the information he had available regarding his retirement payments received from ██████████

A further review of the VCL establishes that the Department did not clearly instruct Claimant on what verifications were being requested of him and what would be considered acceptable verifications. The comments note: "██████████ ██████████ is reporting that you are on long term disability since 2012. Our records show no disability payment have been reported regarding this matter. Please contact me at the number above to discuss the matter." (Exhibit 2). No other information regarding what proofs Claimant was being asked to submit is identified. Therefore, it is found that Claimant did as he was instructed on the VCL by contacting his worker and timely submitting all the information he had available to him concerning any wages received from ██████████

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 closed Claimant's FAP and MA cases based on a failure to verify requested information.

DECISION AND ORDER

Accordingly, the Department's FAP and MA 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 effective July 1, 2014;
2. Issue supplements to Claimant for any FAP and MA benefits that he was entitled to receive but did not from July 1, 2014, ongoing; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun

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

Date Signed: **8/01/2014**

Date Mailed: **8/01/2014**

ZB/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;
- 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.

