

**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.: 14-004337
Issue No.: 2002; 3002
Case No.: ██████████
Hearing Date: August 18, 2014
County: MACOMB-DISTRICT (12)

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 three-way telephone hearing was held on August 18, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Hearings Facilitator.

ISSUES

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

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective July 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 April 29, 2014, Claimant's spouse left a voicemail for the Department reporting that he had lost his employment. See Exhibit 1, p. 2.
2. On April 30, 2014, the Department sent Claimant a Verification of Employment for his employer to complete and it was due back by May 12, 2014. See Exhibit 1, pp. 4-5.
3. On May 1, 2014, Claimant submitted a Semi-Annual Contact Report (contact report), which was due back by May 1, 2014. See Exhibit 1, pp. 6-7.

4. In the contact report, Claimant indicated that her husband had lost his employment and it ended April 11, 2014. See Exhibit 1, pp. 7-8. There was no verification of employment ending provided with the contact report.
5. On May 6, 2014, the Department sent Claimant a New Hire Client Notice (new hire), which requested verification of Claimant's spouse's new employment. See Exhibit 1, pp. 8-9. The new hire was due back by May 16, 2014. See Exhibit 1, pp. 8-9.
6. On May 9, 2014, the Department sent Claimant a Verification Checklist (VCL) (referencing only the FAP program), which requested verification of the spouse's new employment and loss of previous employment. See Exhibit 1, pp. 10-11. The Department also provided two Verifications of Employment for the Claimant to complete regarding her spouse's previous employment and new employment. See Exhibit 1, pp. 12-15. All verifications were extended due to the VCL and all forms were due back by May 19, 2014. See Exhibit 1, pp. 10-15.
7. The Department did not receive the requested verifications.
8. On May 24, 2014, the Department sent Claimant a Health Care Coverage Determination Notice notifying Claimant that her MA benefits would close effective July 1, 2014, due to her failure to provide proof of current income and change of employment. See Exhibit 1, pp. 16-17.
9. On May 24, 2014, the Department sent Claimant a Notice of Case Action notifying Claimant that her FAP benefits would close effective June 1, 2014, due to her failure to provide proof of current income and change of employment. See Exhibit 1, pp. 18-20.
10. On June 4, 2014, Claimant filed a hearing request, protesting the denial (closure) of her FAP and MA benefits. See Exhibit 1, p. 22.
11. On July 9, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which informed her of a scheduled hearing for July 21, 2014.
12. On July 18, 2014, Claimant requested a three-way hearing, which was subsequently granted.
13. On July 22, 2014, the Administrative Law Judge (ALJ) sent Claimant an Adjournment Order.
14. On August 6, 2014, the MAHS sent Claimant a Notice of Hearing, which informed her of the rescheduled three-way hearing for August 18, 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 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. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP and 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 (April 2014), pp. 6-7.

For FAP cases, 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 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.

For FAP verifications deadlines regarding contact reports, the 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 (October 2013), p. 14.

Finally, the Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (July

2013), p. 1. New Hires information is used to determine current income sources for active DHS clients. BAM 807, p. 1.

The Department requests verification by generating a DHS-4635, New Hire Notice. BAM 807, p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1. If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken by the Department, unless client returns verifications. BAM 807, p. 2.

On April 29, 2014, Claimant's spouse left a voicemail for the Department reporting that he had lost his employment. See Exhibit 1, p. 2. On April 30, 2014, the Department sent Claimant a Verification of Employment for his employer to complete and it was due back by May 12, 2014. See Exhibit 1, pp. 4-5. Claimant testified that she did not complete the Verification of Employment because her husband's employment had already ended.

On May 1, 2014, Claimant submitted a contact report, which was due back by May 1, 2014. See Exhibit 1, pp. 6-7. In the contact report, Claimant indicated that her husband had lost his employment and it ended April 11, 2014. See Exhibit 1, pp. 7-8. There was no verification of employment ending provided with the contact report.

On May 6, 2014, the Department sent Claimant a new hire, which requested verification of Claimant's spouse's new employment. See Exhibit 1, pp. 8-9. The new hire was due back by May 16, 2014. See Exhibit 1, pp. 8-9. On May 9, 2014, the Department sent Claimant a VCL (referencing only the FAP program), which requested verification of the spouse's new employment and loss of previous employment. See Exhibit 1, pp. 10-11. The Department also provided two Verifications of Employment for the Claimant to complete regarding her spouse's previous employment and new employment. See Exhibit 1, pp. 12-15. All verifications were extended due to the VCL and all forms were due back by May 19, 2014. See Exhibit 1, pp. 10-15. The Department testified that it did not receive the requested verifications.

On May 24, 2014, the Department sent Claimant a Health Care Coverage Determination Notice notifying Claimant that her MA benefits would close effective July 1, 2014, due to her failure to provide proof of current income and change of employment. See Exhibit 1, pp. 16-17. Also, on May 24, 2014, the Department sent Claimant a Notice of Case Action notifying Claimant that her FAP benefits would close effective June 1, 2014, due to her failure to provide proof of current income and change of employment. See Exhibit 1, pp. 18-20.

At the hearing, Claimant testified that her husband lost his employment on April 11, 2014 and then went to a staffing services position on or around the beginning of May 2014. It appeared that the staffing services position is the same employer as listed in the new hire dated May 6, 2014. See Exhibit 1, pp. 8-9. Also, in mid-May 2014, Claimant testified that her husband completed the new hire and the loss of employment

and faxed it over to the Department (identified the DHS caseworker during hearing) timely. However, Claimant did not submit proof of a fax confirmation page nor did the Department testify that it received such a fax. Claimant also testified that her husband completed both forms himself.

Additionally, Claimant testified that she made several calls to the Department in May 2014 to notify of her husband's new employment; however, did not receive any response. Claimant also appeared to testify that she had difficulty in obtaining the verification. Claimant testified that she is homeless, however, the address indicated in all of the DHS correspondence was the proper mailing address. The Department testified that all of the verifications were sent via central print and it did receive any documents by the United States Postal Service as undeliverable.

Based on the foregoing information and evidence, the Department properly closed Claimant's FAP and MA benefits in accordance with Department policy.

First, 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). It is found that the Claimant failed to rebut the presumption of proper mailing. The evidence presented that the Department properly mailed Claimant the verification requests to the proper mailing address. Moreover, the Department did not receive any documents by the United States Postal Service as undeliverable.

Second, Claimant testified that she contacted the Department multiple times. Moreover, Claimant alleged that her spouse faxed the required verifications timely, however, failed to provide proof of a fax confirmation. Nevertheless, the evidence presented that Claimant failed to submit verifications of her husband's loss of employment and his new employment.


Additionally, the evidence indicated three different occasions in which the Department requested verifications: (i) loss of employment dated April 30, 2014; (ii) new hire dated May 6, 2014; and (iii) loss of employment and new employment dated May 9, 2014. See Exhibit 1, pp. 4 – 5 and 8-15. In all three instances, the evidence presented that the Department did not receive any of the verifications requested. More importantly, the last verification requests dated May 9, 2014, extended the due dates to May 19, 2014. See Exhibit 1, pp. 8-15. Still, Claimant failed to submit the necessary forms to determine her ongoing FAP and MA eligibility. BAM 105, p. 6. Because the VCL and Verifications of Employment were properly mailed and Claimant failed to submit the requested verification prior to the due date, the Department acted in accordance with Department policy when it closed Claimant's FAP and MA cases. BAM 130, p. 6; BAM 130, pp. 6-7; BAM 210, p. 14; and BAM 807, pp. 1-2.

Claimant can reapply for FAP and MA benefits. Claimant can also apply for up to three months of retro MA benefits. See BAM 110 (January 2014), p. 4 and BAM 115 (March 2014), pp. 11-13.

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 acted in accordance with Department policy when it (i) closed Claimant's FAP benefits effective June 1, 2014; and (ii) closed Claimant's MA benefits effective July 1, 2014.

Accordingly, the Department's FAP and MA decision is AFFIRMED.


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

Date Signed: **8/22/2014**

Date Mailed: **8/22/2014**

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

