

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-004535
Issue No.: 1002;3002
Case No.: [REDACTED]
Hearing Date: July 23, 2014
County: SAGINAW (73)

ADMINISTRATIVE LAW JUDGE: ROBERT J. CHAVEZ

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, an in-person hearing was held on July 23, 2014, from Saginaw, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearings Facilitator.

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA SDA CDC
benefits.
2. Claimant was required to submit requested verification by April 14, 2014 for HMP, and April 21, 2014 for FAP.

3. On May 1, 2014, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits.
4. On April 30, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On May 5, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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), and Department of Human Services Reference Tables Manual (RFT).

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.

With regards to claimant's HMP application, there did not appear to be a notice of case action submitted showing the exact date of denial. However, claimant requested a hearing partially on the basis of the denial of an HMP application, and therefore the issue must be addressed.

On April 4, 2014, claimant was sent a verification checklist, with a due date of April 14, requesting proof of income with regards to an HMP application. On April 14, 2014, claimant returned evidence that he had lost his job in February, 2014, and evidence of direct deposits made by his company.

Claimant telecommuted and did not receive actual paychecks; all pay stubs were only received through an online portal which claimant lost access to upon his termination

from his job. Furthermore, claimant had submitted sufficient evidence that he was not employed during the time period in question.

As such, the undersigned holds that claimant complied with the verification request to the best of his ability, and the Department had the information necessary to make an eligibility determination for subsequent months, as claimant was not employed at the time of application. Therefore, the Department was in error when it denied claimant's application for failing to return evidence of income.

With regards to claimant's FAP benefits, claimant was sent a DHS-4638, Wage Match Client Notice requesting verification of income from July 2013 to present. Claimant was given until April 21, 2014 to return such verification.

While there are questions as to whether the notice was sufficiently clear as to what claimant needed to return, or whether claimant ultimately complied with the request to the best of his ability, the undersigned believes that such questions are ultimately irrelevant.

Per policy in BAM 802, a DHS-4638 is only sent when there is a discrepancy between reported earnings and the match. When a match alert is sent to the Department the Department must:

Reconcile each match on the alert by verifying the client's work history stated on the application or other information in the client's case record. Compare that with the wage match information to resolve the following:

- Is the person reported by UIA the DHS client?
- Was the client required to report earnings?
- Were the earnings already reported to DHS?
- Is a referral to the recoupment specialist needed to pursue an overissuance?

If you find a discrepancy, request verification from the client. BAM 802, pg 1-2.

In the current case the Department has failed to show that there was a discrepancy necessitating the sending of a DHS-4638. Claimant had been sending wage information to the claimant for at least a year. The Department appeared to be aware that the claimant was employed, and the general wages claimant was making. The wages claimant was making did not differ from the reports claimant had made, per testimony and evidence in the case packet.

As the Department has failed to show the discrepancy that required the sending of a DHS-4638, the undersigned must hold that the Department has failed to meet its burden

of proof in showing that the claimant was required to return the verification requested. Therefore, the Department erred when it closed claimant's FAP case for failing to return verification that has not been proven was needed.

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

failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied claimant's HMP application and closed claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's 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. Reprocess the HMP application in question.
2. Remove the negative action on claimant's FAP case and restore benefits retroactive to the date of negative action.



ROBERT J. CHAVEZ
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 5, 2014

Date Mailed: August 5, 2014

RJC/tm

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:

