

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

IN THE MATTER OF:



Reg. No.: 14-006611
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: August 7, 2014
County: DHS SSPC-WEST

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 August 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED]

ISSUE

Due to excess income, did the Department properly deny the Claimant's application for Medical Assistance (MA) and determine Claimant's Food Assistance Program (FAP) 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. Claimant applied for FAP and MA benefits and stated that no one in the household is disabled.
2. On May 15, 2014, the Department mailed to Claimant a Health Care Coverage Supplemental Questionnaire. (Exhibit 1 Pages 13-15.) Her responses were due by May 27, 2014.
3. Claimant provided the Department with a copy of the first page of her lease, but without any signatures, and provided copies of the "carbon copy" of two rent checks she had written.
4. Claimant receives \$1,407 in monthly RSDI benefits.

5. On June 5, 2014, the Department mailed a Verification Checklist (VCL) to Claimant asking her to provide verification of utilities and rent. (Exhibit 1 Pages 18-19.) She was specifically instructed to provide either a rent receipt showing the amount, address, landlord and renter; or a statement from the landlord; or a copy of her current lease.
6. Claimant responded with copies of the same check carbon copies, and a copy of the first page of her lease with a notation of "month to month since 8/26/2013."
7. On June 17, 2014, the Department calculated Claimant's FAP without regard to housing expense because she had not submitted what the Department considered adequate verification of her housing expenses. (Exhibit 1 Page 28-29.) It also denied her application for MA because her income was above the annual limit of \$16,884. (Exhibit 1 Page 23.)
8. On June 30, 2014, the Department received Claimant's hearing request protesting 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), 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.

"Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105. Per BEM 103, the Department is to:

"Send 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 instructs, with respect to the FIP, SDA, MA and AMP programs, “A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

“The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification.”

BAM 130 does NOT place responsibility on the Department to make collateral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond by the deadline. The Department sent her instructions explaining what was needed to verify her housing expense. She responded with another copy of the first page of her lease – with an additional notation – and copies of carbon copies of her two rent checks.

The Department is instructed to “use the best available information. If no evidence is available, use your best judgment.” In this case, Claimant provided a copy of the first page of her lease, showing her monthly rent, identifying the home address (which corresponded to Claimant’s address) and copies of two rent checks (which did not correspond to the rent shown in the lease). If the rent payments matched the rent shown in the lease, this would have been an easier call; but since the rent checks were each for \$700 and the lease showed rent of \$675, there is a discrepancy. Nonetheless, using the best available evidence, the Department should have accounted for rent of \$675 per month until Claimant provided appropriate verification such as a statement from the landlord that she was actually paying \$700 per month. The Department erred in calculating Claimant’s FAP.

During the hearing, Claimant testified that she is disabled. The Administrative Law Judge is not in any position to determine whether she is in fact disabled. At the time of her application, she stated she was not disabled and the Department is permitted to rely on that statement until it receives adequate evidence to the contrary. Claimant provided

evidence that she receives \$1,407 per month in RSDI, or \$16,884. At the time of her application she was 64 years old. She turned 65 on June 14, 2014. She was in a group of one at the time for MA purposes. The limit for a group of one between age 19 and 64 is \$15,521.10. (Exhibit 1 Page 24.) Because she was over the limit, the Department properly denied her application for MA.

The Administrative Law Judge, based upon 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 denied Claimant's application for MA, and did not act in accordance with Department policy when it determined Claimant's FAP.

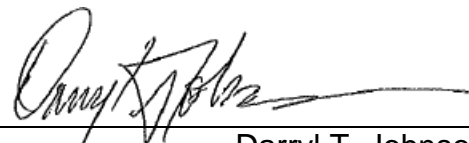
DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED IN PART with respect to MA and **REVERSED IN PART** with respect to FAP.

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. Redetermine Claimant's FAP benefit eligibility, effective June 16, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

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

DTJ / jaf

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:

