

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

IN THE MATTER OF:



Reg. No.: 14-014096
Issue No.: FAP
Case No.: [REDACTED]
Hearing Date: December 16, 2014
County: ONTONAGON

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 16, 2014, from Ontonogon, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], General Services Program Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medicaid (MA) benefit cases?

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.
2. Claimant's MA case was due for Redetermination in October 2014.
3. On October 2, 2014, the Department received verification from Claimant's bank regarding his savings account.
4. On October 3, 2014, a Health Care Coverage Determination Notice was issued to Claimant stating the MA case would close effective November 1, 2014, because verification of bank account, savings, was not returned.
5. On October 13, 2014, the Department re-instated Claimant's MA case because the savings account verification had been received.

6. On October 13, 2014, Claimant submitted a written hearing request at the local Department office regarding his MA and FAP benefit cases. Claimant was told the MA case had been reinstated and was given a Hearing Request Withdrawal form.
7. On October 15, 2014, the Department issued a Verification Checklist to Claimant requesting verification of all bank accounts, with a due date of October 27, 2014. It was noted that the Department did not have verification of the account where Claimant's Social Security was being deposited.
8. Claimant's MA case was pended because the additional bank verification was needed.
9. On October 22, 2014, a hearing summary was issued to Claimant indicating the MA case had been reinstated, the Department had denied Claimant's MA in error, and the Department had received the outstanding bank statement. A Hearing Request Withdrawal form was included.
10. On October 28, 2014, the Department received a note from Claimant stating that he had been ill and staying with his son, therefore he did not get the mail from the Department until Saturday, October 25, 2014. Claimant indicated he was confused about what was going on with his medical and food benefit cases. Claimant requested help and extension with what he needed to do.
11. On October 28, 2014, a Health Care Coverage Determination Notice was issued to Claimant stating the MA case would close effective November 1, 2014, because the additional bank account information that was requested had not been returned by the October 27, 2014 due date.
12. On October 28, 2014, a Benefit Notice was issued to Claimant stating the FAP case would end November 30, 2014, based on a failure to allow the Department to verify information.
13. On November 13, 2014, Claimant submitted a written note to the Michigan Administrative Hearing System indicating he was confused about notices for his hearing, denial and approval notices for his MA and FAP cases, and requested an in-person hearing.

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.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130.

The Department is to verify the value of assets when determining MA and FAP eligibility. The money in an account or on deposit is considered a type of cash asset. BEM 400. Accordingly, the Department properly requires Claimant provide verification of all banking accounts.

In this case, the timing of when additional verification was requested would have been confusing because it overlapped with the Department indicating that they had received the outstanding bank verification, therefore, the MA case was re-instated and Claimant could complete the Hearing Request Withdrawal form.

The Department has indicated they erred when they issued the October 3, 2014, Health Care Coverage Determination Notice stating the MA case would close effective November 1, 2014, because verification of bank account, savings, was not returned. The Eligibility Specialist testified Claimant's MA case had already been reinstated before Claimant arrived at the local Department office on October 13, 2014, with his

hearing request. The error and correction were explained to Claimant and he was given a form to withdraw his hearing request. Further, there had been no action regarding the FAP case at that time. Accordingly, when Claimant left the local Department office on October 13, 2014, he would have reasonably understood that nothing else was needed and his MA and FAP benefits would continue.

The Eligibility Specialist explained that on October 15, 2014, the Department realized they did not have verification of the bank account where Claimant's Social Security was received by direct deposit. The Office of Inspector General was contacted to try to assist and Claimant's MA case was pended. A Verification Checklist was issued to Claimant on October 15, 2014, requesting verification of all bank accounts, with a due date of October 27, 2014. The Verification Checklist noted that the Department did not have verification of the account where Claimant's Social Security was being deposited.

However, on October 22, 2014, a hearing summary was issued to Claimant indicating the MA case had been reinstated, the Department had denied Claimant's MA in error, and the Department had received the outstanding bank statement. A Hearing Request Withdrawal form was included. This ALJ understands that in the October 22, 2014 hearing summary, the Department was only addressing the previously proposed MA closure, which occurred before the October 15, 2014, Verification Checklist was issued. The Department also included notes with the October 15, 2014 Verification Checklist to clarify what was still needed. However, it is also easy to see how there could be confusion because the October 22, 2014 hearing summary explanation would seem to contradict the October 15, 2014 request for additional bank verification.

On October 28, 2014, the Department received a written note from Claimant stating that he had been ill and staying with his son, therefore he did not get the mail from the Department until Saturday, October 25, 2014. Claimant indicated he was confused about what was going on with his medical and food benefit cases. Claimant requested help and extension with what he needed to do. The Department did not grant any extension and proceeded to close Claimant's MA and FAP cases. On October 28, 2014, a Health Care Coverage Determination Notice was issued to Claimant stating the MA case would close effective November 1, 2014, because the additional bank account information that was requested had not been returned by the October 27, 2014 due date. On October 28, 2014, a Benefit Notice was issued to Claimant stating the FAP case would end November 30, 2014, based on a failure to allow the Department to verify information.

Lastly, Claimant's testimony that he has significant trouble with reading and understanding words is supported by spelling/grammar in the typed statements he has submitted. It was also noted that Claimant does not have a phone. Therefore, the only way the Department can communicate with Claimant when he is not at the local Department office for a face to face discussion would be written correspondence. The Department also confirmed that it is a long distance for Claimant to get to the local Department office.

While this ALJ notes the attempts the Department made to explain and clarify what additional bank verification was still needed, ultimately the timing of the request for additional verification would have been confusing because they overlapped the communications that the MA case was reinstated as the outstanding bank verification was received and Claimant could withdraw his request for hearing.

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 closed Claimant's MA and FAP cases.

Request for Reimbursement for Transportation for the Hearing

On the record during the December 17, 2014 hearing proceedings, the Claimant requested reimbursement of transportation costs for the hearing. The Claimant provided his name and confirmed his address. The Department confirmed that the mileage would be 45-50 miles one way or 90-100 miles round trip given the road conditions and route Claimant took that date. This was in accordance with the BAM 600 policy that states:

Clients may request reimbursement of transportation and child care costs at the hearing. Clients must make the request on the hearing record and provide the ALJ the following information:

- Their name and address.
- For **transportation expense reimbursement**, the number of miles traveled round-trip for the hearing.
- For child **care expense reimbursement**, the provider type (for example, child care center) and a signed and dated receipt from the provider showing the full names and ages of all children for whom care was provided.

MAHS will issue the reimbursements when the total combined cost exceeds \$3.

Note: Reimbursements are computed using the least costly travel rate in the AHN 1115-1 and child care costs in RFT 270.

The Michigan Administrative Hearing System (MAHS) is processing the Claimant's request for transportation costs in accordance with the BAM 600 policy.

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. Re-determine Claimant's MA and FAP eligibility retroactive to the November 1, 2014 and December 1, 2014 effective dates in accordance with Department policy.
2. Issue Claimant any supplement he may thereafter be due.

Colleen Lack

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

Date Signed: **12/22/2014**

Date Mailed: **12/22/2014**

CL/hj

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 48909-8139

cc:

