

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-016229
Issue No.: 1000; 2002; 3000
Case No.: ██████████
Hearing Date: December 17, 2014
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

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 December 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist; and ██████████, Assistant Payment Supervisor. Also, Senior Support Specialist, ██████████, was present from the Office of Child Support (OCS).

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective October 1, 2014?

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 MA – Low-Income Family (LIF) benefits. See Exhibit 2, pp. 20-21.
2. Effective October 1, 2014, Claimant's MA – LIF coverage closed. See Exhibit 2, pp. 20-21.
3. On November 10, 2014, Claimant filed a hearing request, protesting the closure of her Food Assistance Program (FAP) benefits, Family Independence Program (FIP) benefits, and MA benefits. See Exhibit 1, pp. 3-4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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.

The Food Assistance Program (FAP)

On or around November 3, 2014, OCS sent Claimant a Noncooperation Notice and Claimant was placed in non-cooperation status with OCS that same date. See Exhibit 1, p. 5. As a result of receiving the non-cooperation notice, Claimant appeared to request a hearing in which she disputed her FAP benefits/disqualification on November 10, 2014. See Exhibit 1, p. 4. However, the Department actually sent notice of her FAP disqualification on November 12, 2014. On November 12, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefit would decrease to \$357 effective December 1, 2014, ongoing, due to Claimant's non-cooperation with OCS. See Exhibit 2, pp. 12-13.

Based on the foregoing information, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's dispute with her FAP disqualification. Claimant's hearing request is dated before the actual Notice of Case Action was generated. See Exhibit 1, pp. 3-4 and Exhibit 2, pp. 12-13. As such, Claimant's hearing request is

DISMISSED for lack of jurisdiction. See BAM 600 (October 2014), pp. 4-6. Claimant can request another hearing to dispute her FAP disqualification/non-cooperation with OCS. See BAM 600, pp. 4-6.

The Family Independence Program (FIP)

On November 10, 2014, Claimant filed a hearing request, protesting her FIP case closure. See Exhibit 1, p. 4. It was discovered during the hearing that Claimant's FIP benefits closed on or around September of 2013 due to her receiving a lifetime sanction. See BEM 233A (July 2013 and October 2014), p. 1 (lifetime closure for the third episode of noncompliance). Claimant testified that she did receive a notice notifying her of the closure on or around September 2013. In fact, the Department presented a Notice of Case Action notifying Claimant that her Cash (FIP) application is denied effective September 1, 2013, due to her lifetime disqualification (third non-compliance). See Exhibit 2, pp. 1-7. Even though the Department provided a notice of application denial, it provides evidence that Claimant did receive a lifetime sanction for her FIP benefits.

Based on the foregoing information, this ALJ lacks the jurisdiction to address Claimant's dispute with her FIP benefits. First, the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action. Second, Claimant acknowledged receiving a FIP closure notice dating back to September 2013 and that she failed to request a hearing to dispute the closure at that time. For the above stated reasons, Claimant's FIP hearing request is DISMISSED for lack of jurisdiction. See BAM 600, pp. 4-6.

Medical Assistance (MA) benefits

In this case, Claimant also filed a hearing request disputing her MA case closure. Claimant's testimony appeared to indicate that her MA benefits closed on or around October 2014. Claimant testified that she thought her MA closure was based on the non-cooperation with OCS. However, Claimant testified that she never actually received an MA case closure notice stating such denial reasons.

In response, the Department did present MA denial notices; however, the evidence indicated that Claimant's MA closure was based on other factors unrelated to her non-cooperation with OCS. For example, on September 11, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that she was not eligible for benefits effective January 1, 2014, to September 30, 2014 because she is active for the same program benefits in another group and the individual does not live with the applicant. See Exhibit 2, pp. 8-11 and determination notice dated September 18, 2014, Exhibit 2, pp. 16-19. The Department presented

Claimant's Medicaid Eligibility Summary, which confirmed she did receive MA benefits from January 2014 to September 2014. See Exhibit 2, pp. 20-21.

It should be noted that subsequent to this hearing, the Department was supposed to send Claimant's Eligibility Summary as part of the evidence packet (Exhibit 2). Instead, this ALJ received Claimant's Medicaid Summary. See Exhibit 2, pp. 20-21. Also, the Department was supposed to send determination notices dated on or around September 27 and 30, 2014. However, this ALJ received determination notices dated September 11 and 18, 2014, in lieu of the other dates requested. Nevertheless, this ALJ allows as evidence Claimant's Medicaid Summary (Exhibit 2), determination notice dated September 11, 2014, and a determination notice dated September 18, 2014, in lieu of the other documents requested as it provides the same information necessary to determine if whether she received MA coverage. See Exhibit 2, pp. 8-21.

Additionally, the Department testified that Claimant's MA benefits closed effective December 1, 2014, ongoing, due to her failure to submit a new hire notice. However, the Department presented Claimant's Medicaid Summary, which indicated her MA benefits closed effective October 1, 2014. Exhibit 2, pp. 20-21. It is unclear why there is a discrepancy as to closure date. It appears that Claimant's MA benefits closed effective October 1, 2014, based on a failure to submit a new hire notice. Claimant acknowledges that she failed to submit the new hire notice to the Department.

The Michigan Department of Human Services (DHS) routinely matches recipient data with other agencies through automated computer data exchanges. BAM 807 (July 2014), 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 in the system, unless client returns verifications. BAM 807, p. 2.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (July 2014 and October 2014), p. 1. A positive action is a DHS action to approve an application or increase a benefit. BAM 220, p. 1. A negative action is a DHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1; see Verification and Collateral Contacts, BAM 130 (July 2014 and October 2014), p. 8 (the Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed); and see also Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, Chapter 13.1 – Notice of Case Action, p. 27 (for all case actions affecting an individual's Medicaid eligibility, the department must provide a written notice of case action to the individual).

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA benefits effective October 1, 2014.

First, Claimant's testimony appeared to indicate her MA benefits closed effective October 1, 2014. Instead, the Department's testimony appeared to indicate Claimant's MA benefits closed effective December 1, 2014, based on a failure to submit a new hire. However, it was discovered subsequent to the hearing that Claimant's MA benefits closed effective October 1, 2014. Even though Claimant acknowledged she failed to submit the new hire, the Department provided inconsistent information as to benefit period in which Claimant's MA coverage closed.

Second, the Department failed to provide evidence that Claimant received notice of her MA case closure effective October 1, 2014. Claimant acknowledged during the hearing of receiving MA closure notices; however, again, there is discrepancy as to when Claimant's MA benefits closed. As such, the Department failed to provide evidence that Claimant received notice of her MA closure as required by policy. See BAM 130, p. 8; BAM 220, pp. 1-4; and the MAGI Related Eligibility Manual, Chapter 13.1 – Notice of Case Action, p. 27.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly closed Claimant's MA benefits effective October 1, 2014.

Accordingly, the Department's MA 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. Reinstate Claimant's MA case as of October 1, 2014;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from October 1, 2014; and
3. Notify Claimant of its decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP and Cash (FIP) hearing request (dated November 10, 2014) is **DISMISSED** for lack of jurisdiction.


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

Date Signed: **12/19/2014**

Date Mailed: **12/19/2014**

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.

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

