

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 14-007107
Issue No.: 2001;3000
Case No.: [REDACTED]
Hearing Date: August 21, 2014
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) 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. In March 2014, Claimant submitted an application for FAP benefits.
2. On April 9, 2014, the Department sent Claimant a Notice of Case Action informing him that his FAP application had been denied on the basis that he failed to provide proof of citizenship or immigration status. (Exhibit 1)
3. On an unverified date, Claimant submitted an application for MA benefits.
4. On July 16, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing him that he was ineligible for MA on the basis that he is not aged, blind, disabled, under 21, pregnant or a parent/caretaker relative of

a dependent child. The Notice also indicates that the client stated that he is not disabled. (Exhibit A)

5. On July 21, 2014, Claimant submitted a hearing request disputing the Department's actions with respect to his FAP and MA cases.

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).

As a preliminary matter, at the hearing, Claimant raised concerns regarding his cash assistance benefits and an application for State Disability Assistance that he submitted to the Department. A review of the request for hearing submitted by Claimant establishes that Claimant did not check the cash assistance or state disability assistances boxes on the hearing request form. Therefore, because Claimant did not request a hearing concerning his cash assistance benefits, the issue was not addressed at the hearing. The hearing proceeded with respect to the FAP and MA program.

FAP

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 *calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, in March 2014, Claimant submitted an application for FAP benefits. On April 9, 2014, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to deny his FAP application on the basis that he is not a citizen or eligible alien and that he has not provided proof of his citizenship or immigration status to the Department. (Exhibit 1). Although Claimant testified that he did not receive the Notice of Case Action informing him of the application denial, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). The Notice of Case Action was mailed to Claimant at his confirmed mailing address and Claimant did not report that he was having problems receiving mail. Claimant stated that he first became aware of the application denial and the administrative hearing process in June 2014 and indicated that his case was transferred to Oakland County and that he received some communications from the Oakland County Department offices, however, this is insufficient to rebut the presumption that he received the Notice of Case Action, as it was properly addressed.

Claimant did not file a request for hearing to contest the Department's action until July 21, 2014. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 6.

MA

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.

Additionally, Claimant submitted a hearing request concerning the denial of his application for MA benefits. Although it was unverified at the hearing, the Department stated that Claimant submitted an application for MA benefits on May 2, 2014. Claimant stated that he received a Health Care Coverage Determination Notice on July 16, 2014, informing him that for the period of April 1, 2014 to April 30, 2014, he was ineligible for MA on the basis that he is not aged, blind, disabled, under 21, pregnant or a parent/caretaker relative of a dependent child. The Notice also indicates that the Claimant stated that he is not disabled.

At the hearing, Claimant disputed the contents of the Notice and the reason for the intended action, stating that he has several medical conditions and that he is disabled for MA purposes. Claimant testified that he was never asked to verify his medical conditions and the Department confirmed that a verification checklist was never sent to Claimant, nor was a disability determination made on his case. The Department testified that Claimant was approved for MA under the Healthy Michigan Plan for May 2014, ongoing, but that a Notice informing Claimant of the approval was not sent. The Department remained unable to explain why a Health Care Coverage Determination Notice was sent to Claimant denying his MA benefits, if he was approved for MA under the Healthy Michigan Plan for the same period.

BEM 105 provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category which is considered the category that results in eligibility or the least amount of excess income. BEM 105 (January 2014), p.2. Therefore, 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 has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it processed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP is DISMISSED and 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. Register and process Claimant's application for MA benefits;
2. Determine Claimant's MA eligibility under the most beneficial category taking into consideration his alleged disability;
3. Issue retroactive MA coverage to Claimant for any MA benefits that he was entitled to receive but did not from the application date, ongoing; and
4. Notify Claimant in writing of its decision.



Administrative Law Judge
for Maura Corrigan, Director

Department of Human Services

Date Signed: **8/28/2014**

Date Mailed: **8/28/2014**

ZB / tlf

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

