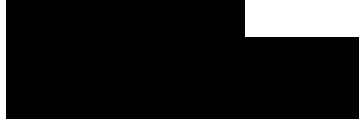


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-010510
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: September 25, 2014
County: Oakland-District 2 (Madison Hts)

ADMINISTRATIVE LAW JUDGE: Darryl 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 September 25, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] and Assistance Payments Worker [REDACTED].

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) and 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 was an on-going FAP and MA recipient.
2. The Department obtained information suggesting Claimant's wife was living in the home, and the Department requested a Front End Eligibility (FEE) investigation from the Office of the Inspector General (OIG) to determine whether she was living in the home.
3. On July 25, 2014, the Department mailed to Claimant a verification checklist (VCL) requiring him to provide information regarding his wife's employment, financial records, and information to verify that she was living somewhere other than with Claimant. (Exhibit 1 Pages 12-19.)
4. On August 6, 2014, the Department received the OIG's report. (Exhibit 1 Pages 3-4.)

5. On August 6, 2014, the Department mailed a Notice of Case Action (NCA), closing Claimant's FAP effective September 1, 2014, because he failed to verify whether his wife was living in the home. (Exhibit 1 Pages 9-11).
6. The Department received Claimant's hearing request on August 13, 2014.

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.

"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 BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Department mailed to VCL to Claimant. It is also persuasive that Claimant did not respond to the VCL. During the hearing, Claimant testified that: he and his wife are separated; their children live at the home with him, and she comes to visit them every day; she has been out of the house for four months, but he does not know where she lives; she pays the mortgage and the gas bill for the home. The Department provided evidence that she owns a vehicle that is registered at the couple's home, and her driver's license shows her residence to be at the couple's home.

BEM 212 (7/1/14) p. 1 details how a group is to be determined for FAP purposes. "Spouses who are legally married and live together must be in the same group." If the evidence establishes that a married couple is living together, the Department must include them in the FAP group. And, if a Claimant does not provide verification regarding a group member's income or assets, the Department is to take negative action.

BEM 211 (7/1/14) p. 1 discusses groups for MA purposes. "A person about whom information necessary to determine eligibility is refused and that person's spouse and children, if living with the person, are not eligible for MA."

The evidence establishes that Claimant is married. Claimant alleges he and his wife are separated, but the evidence does not support his claim. Other than the Claimant's self-serving testimony that she is not living there, there is no evidence that she is not living in the home. The evidence is persuasive that the couple resides in the same home, and it was his responsibility to provide the verification requested by the Department.

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 acted in accordance with Department policy when it closed Claimant's FAP and MA.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **10/1/2014**

Date Mailed: **10/1/2014**

DJ/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:

