

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

IN THE MATTER OF:



Reg. No.: 14-013623
Issue No.: 2002; 3002
Case No.: [REDACTED]
Hearing Date: November 13, 2014
County: WAYNE-35 (REDFORD)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 November 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Due to a failure to comply with the verification requirements, did the Department properly deny Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | |

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant applied for received:
 FIP FAP MA SDA CDC
benefits.
2. On October 1, 2014, the Department
 denied Claimant's application.
 closed Claimant's case.
 reduced Claimant's benefits.

4. On September 13, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) notice of its action.
5. On October 3, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's action.

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.

Mail was sent to the Claimant in August, 2014; this mail was returned to the Department as undeliverable. On August 7, 2014, the Department sent a request to verify address to the Claimant, *to the exact same address that was confirmed to be an incorrect address*; unsurprisingly, this too was returned as undeliverable. When Claimant failed to return verification for a verification request never received, the Department closed the case.

It should be noted that at all times, the Department had in its possession Claimant's current and working phone number.

The Department repeatedly cited BEM 220, Residency, as the basis for its policy of sending verification requests to clients for whom mail has been returned, and cited this same policy as the basis for closing Claimant's case. The notice of case action states that the case was closed because "Verification of Unable to locate household (BEM 220) was not returned".

BEM 220 does not in any way contain policy that allows a case to be closed when mail is returned as undeliverable. In fact, BEM 220 states at least twice, that:

“Lack of a permanent dwelling or fixed mailing address does not affect an individual’s state residence status. Assistance cannot be denied solely because the individual has no permanent dwelling or fixed address.”

The undersigned might argue that there could have been a discrepancy as to whether the Claimant was still a resident of the state, requiring verification, per BAM 130. However, as BEM 220 specifically states not to deny eligibility based on the lack of a fixed address, this reasoning is specious at best.

However, even assuming that the Department could close a case for a potential residency discrepancy (thus requiring verification), this reasoning does not explain why the Department subsequently mailed a verification request to an address it already knew to be incorrect. Closing the case because the Claimant failed to return verification made upon a request that the Department knew the Claimant did not receive is absolute error.

BAM 130 states that verification can be made through documents, collateral contacts, or home calls. BAM 130 does not say that verification can only be made through sent verification requests. While documentation is preferred, BAM 130 specifically allows for collateral contacts and home calls when documentation is not an option. Home calls, while not required, can be used to verify factors.

More importantly, BAM 130 states that if verification cannot be obtained by either the client or the local office, despite a reasonable effort, the Department is to use the best available information. Reasonable effort, as defined by this policy, applies to both the local office and the Claimant, not the Claimant alone—in other words, the Department must make a reasonable effort to obtain verification as well.

In this case, the Department sent a verification checklist to an address that it already knew was incorrect; this verification checklist was returned as undeliverable. This was the extent to which the Department made an effort to verify information it felt was needed.

The Department failed to use options available to it in BAM 130, specifically a collateral contact of *simply calling the Claimant*, to verify the information. At no point can the Administrative Law Judge say that the Department made a reasonable effort in attempting to verify the information it felt that it needed.

At all times, the Department had Claimant’s current and working phone number. A simple home call to the Claimant, could have, at any time, been used to update Claimant’s address. Policy in BEM 220, heavily relied upon by the Department during the hearing, at no point states that there is such a thing as “Verification of Unable to

Locate household.” Policy in BEM 220 specifically states that lack of a fixed mailing address cannot be used to deny benefits.

As such, because the Department failed to make a reasonable effort to obtain the information it felt that it needed, and because there is no support in the policy cited that the information was required to continue benefits, the undersigned holds that the Department closed Claimant’s FAP case in error.

With regard to the MA case closure, the Department argued that Claimant failed to return a redetermination form with regard to the MA case.

However, no evidence was submitted that redetermination paperwork was ever sent to the Claimant.

Therefore, the Department has failed to prove that Claimant’s redetermination was processed correctly, and therefore has failed to prove that Claimant’s MA case was properly closed.

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 .
- did not act in accordance with Department policy when it closed Claimant's FAP case.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department’s decision is

- AFFIRMED.**
- 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. Reopen Claimant’s FAP case retroactive to the date of negative action and issue Claimant any supplemental benefits to which they are otherwise entitled.

2. Reopen Claimant's MA case retroactive to the date of negative action, and issue Claimant any supplemental benefits to which they are otherwise entitled.



Robert Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/1/2014**

Date Mailed: **12/1/2014**

RJC / tm

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:

