

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

IN THE MATTER OF:

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Reg. No.: 14-014720
Issue No.: 2003; 3003
Case No.: ██████████
Hearing Date: November 24, 2014
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

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 telephone hearing was held on November 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUES

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

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective November 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 FAP and MA benefits.
2. On April 15, 2014, the Department sent Claimant a redetermination for her MA benefits and it was due back by May 1, 2014. See Exhibit 1, pp. 5-10.

3. On June 4, 2014, the Department sent Claimant a Verification Checklist (VCL and regarding her MA benefits), which requested proof of her income and it was due back by June 16, 2014. See Exhibit 1, pp. 11-13.
4. Effective June 1, 2014, Claimant's MA benefits closed.
5. On September 16, 2014, the Department sent Claimant a redetermination (regarding FAP benefits), which was due back by October 1, 2014. See Exhibit 1, p. 14.
6. On September 30, 2014, Claimant submitted her redetermination (paper copy and online). See Exhibit 1, pp. 14-20 and 25-35. With Claimant's redetermination, she provided four paystubs in which the pay dates ranged from June 26, 2014, to August 7, 2014. See Exhibit 1, pp. 31-24.
7. On October 2, 2014, the Department sent Claimant via local print a VCL (regarding FAP eligibility), which requested all checks stubs from income for the month of September 2014 and the verifications were due back by October 13, 2014. See Exhibit 1, pp. 12-13.
8. On October 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective November 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 2, pp. 1-4.
9. On October 22, 2014, Claimant filed a hearing request, protesting her FAP and MA case closure. See Exhibit 1, pp. 2-3.

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.

Medical Assistance benefits

In this case, Claimant was an ongoing recipient of MA benefits. On April 15, 2014, the Department sent Claimant a redetermination for her MA benefits and it was due back by May 1, 2014. See Exhibit 1, pp. 5-10. On June 4, 2014, the Department sent Claimant a VCL (regarding her MA benefits), which requested proof of her income and it was due back by June 16, 2014. See Exhibit 1, pp. 11-13. The Department testified that Claimant did not submit the redetermination and income information; therefore, her MA benefits closed effective June 1, 2014.

At the hearing, Claimant testified that she submitted the redetermination and income verifications requested before the due dates. Claimant also testified that she left a voicemail for her DHS caseworker in June 2014 upon receipt of the VCL dated June 16, 2014. Claimant testified she contacted the Department to see if it received the redetermination.

It should be noted that the Department did not send Claimant a Notice of Case Action notifying her that her MA benefits closed effective June 1, 2014. Claimant testified that she never received any closure notice. Even though Claimant's hearing request is more than ninety days since the closure of the MA benefits, this Administrative Law Judge (ALJ) finds her hearing request timely based on the Department's failure to provide a closure notice. See BAM 600 (October 2014), pp. 4-6. Also, it is unclear why the Department issued a VCL dated June 16, 2014, requesting proof of income, if it never received the redetermination.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

A complete redetermination is required at least every 12 months. BAM 210 (October 2013), p. 1. For MA cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210 (October 2013), p. 2. A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. For MA cases, benefits are not automatically terminated for failure to record receipt of the redetermination packet. BAM 210, p. 10.

For MA cases, verifications are due the same date as the redetermination/review interview. BAM 210, p. 14. When an interview is not required, verifications are due the date the packet is due. BAM 210, p. 14. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted)

to provide all documents and information. BAM 210, p. 14. The Department gives timely notice of the negative action if the time limit is not met. BAM 210, p. 14 and see also BAM 130 (April 2014), p. 7 (the Department sends a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed).

Based on the foregoing information and evidence, the Department improperly closed Claimant's MA benefits effective June 1, 2014, in accordance with Department policy.

First, the evidence presented that the Department failed to give Claimant any notice of her MA closure. The Department did not give any closure notice based on either failure to provide a redetermination or failure to comply with the verification requirements. As stated above, the Department sends a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. See BAM 130, p. 7 and BAM 210, p. 14. Also, if Claimant's MA case closed based on a failure to provide the redetermination, it would have sent her a Notice of Case Action. 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 (January 2014), p. 1. In any event, the Department failed to send Claimant any notice of her MA closure in accordance with Department policy.

Second, this ALJ finds that Claimant also credibly testified that she submitted both her MA redetermination and income verifications by their respective due dates. Claimant credibly testified that she attempted to contact her DHS worker upon receipt of VCL in order to ensure that the Department received her redetermination.

Food Assistance Program benefits

For FAP cases, benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210 (July 2014), p. 2. If the client does not begin the redetermination process, allow the benefit period to expire. BAM 210, p. 2. Also, for FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the EDG. BAM 210, p. 11. A DHS-1605 (Notice of Case Action) is not generated. BAM 210, p. 11.

Additionally, verifications must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. BAM 210, p. 14. The DHS-3503, Verification Checklist, should be sent after the redetermination interview for any missing verifications allowing 10 days for their return. BAM 210, p. 14. For FAP cases, the Department sends 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. BAM 130 (October 2014), p. 6.

In this case, on September 16, 2014, the Department sent Claimant a redetermination, which was due back by October 1, 2014. See Exhibit 1, p. 14. On September 30,

2014, Claimant submitted her redetermination (paper copy and online). See Exhibit 1, pp. 14-20 and 25-35. With Claimant's redetermination, she provided four paystubs in which the pay dates ranged from June 26, 2014, to August 7, 2014. See Exhibit 1, pp. 31-24. The Department testified that it needed Claimant's updated paystubs. Thus, on October 2, 2014, the Department sent Claimant via local print a VCL (regarding FAP eligibility), which requested all check stubs from income for the month of September 2014 and the verifications were due back by October 13, 2014. See Exhibit 1, pp. 12-13. The Department testified that Claimant did not provide the necessary verifications. Thus, on October 16, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits closed effective November 1, 2014, ongoing, due to her failure to comply with the verification requirements. See Exhibit 2, pp. 1-4.

At the hearing, Claimant testified that it is difficult to obtain verification of her paystubs from her employer and she was only able to provide copies that were submitted on September 30, 2014. Also, Claimant testified she received a Notice of Missed Interview, even though a telephone interview was completed. However, Claimant testified she never received the VCL dated October 2, 2014. On an unspecified date, Claimant testified she spoke with a DHS worker who stated the VCL was sent via central print (from Lansing). During the hearing, though, the Department indicated the VCL was sent via local print (local DHS Office). Claimant testified that she does not have any issues with her mail and the Department also did not indicate any returned mail (in regards with the VCL) from the United States Postal Service (USPS).

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective November 1, 2014.

First, it is found that Claimant rebutted the presumption of proper mailing. The proper mailing and addressing of a letter creates a presumption of receipt which 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). However, Claimant credibly testified that she never received the VCL dated October 2, 2014. Claimant's credibility is supported by the Department's contradictory testimony on how the VCL was sent. Claimant credibly testified that the Department originally notified her the VCL was sent via central print (from Lansing). During the hearing, though, the Department indicated the VCL was sent via local print (local DHS Office). As such, it is found that the Claimant rebutted the presumption of proper mailing. This infers that Claimant never received the VCL dated October 2, 2014 and therefore, was never given the opportunity to provide the past 30 days of her employment paystubs.

Second, the client must obtain required verification, but the local office must assist if they need and request help. BAM 130, p. 4. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. In this case, Claimant had already provided copies of her pay stubs. See Exhibit 1, pp. 21-24. The Department could have used this best available information that Claimant had provided to determine FAP eligibility. See BAM

130, p. 4. It should be noted the paystubs provided were based on new employment that she reported on the redetermination. See Exhibit 1, p. 17.

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 did not act in accordance with Department policy when it improperly closed Claimant's MA benefits effective June 1, 2014; and (ii) improperly closed Claimant's FAP benefits effective November 1, 2014.

Accordingly, the Department's FAP and MA decisions are 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 June 1, 2014 and reinstate Claimant's FAP case as of November 1, 2014
2. Begin recalculating the MA and FAP budgets from the dates of closure, in accordance with Department policy;
3. Issue supplements to Claimant for any MA and FAP benefits she was eligible to receive but did not from the dates of closure; and
4. Notify Claimant of its MA and FAP decision in accordance with Department policy.


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

Date Signed: **12/2/2014**

Date Mailed: **12/2/2014**

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

CC: