

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14120
Issue No.: 2002; 3002
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 18, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's translator and authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility and denied Claimant's Medical Assistance (MA) application due to a Claimant failure to verify assets.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED]/13, Claimant applied for FAP and MA benefits.
2. On an unspecified date, DHS processed expedited FAP benefit eligibility.
3. The DHS database listed that Claimant's spouse had a checking account.
4. On [REDACTED] 13, DHS mailed Claimant a Verification Checklist (Exhibits 1-2) requesting proof of the checking account.

5. On an unspecified date, Claimant reported to DHS that the checking account was closed and the bank refused to provide information of the account closure (see Exhibit 3).
6. On [REDACTED]/13, DHS terminated Claimant's FAP eligibility, effective [REDACTED]/2013, and denied Claimant's MA benefit application (see Exhibits 4-6)

CONCLUSIONS OF LAW

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of FAP benefits and a denial of MA benefits. It was not disputed that DHS took both actions based on an alleged failure by Claimant to verify a checking account in Claimant's spouse's name.

Assets must be considered in determining eligibility for LIF, G2C, SSI-related MA categories and FAP. BEM 400 (10/2013), p. 1. DHS is to verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 56.

DHS presented testimony that proof of Claimant's spouse's checking account was requested because the account was listed in Bridges (the DHS database). The DHS testimony is understood to mean that at some time in the past, Claimant reported the checking account as an asset to DHS. DHS did not present any evidence as to when that time in the past was.

Claimant's AHR testified that she was told by the bank that her father's checking account was active seven years ago and that the bank could not complete any documentation for the account due to the lengthy lapse of time since the account was open.

A literal reading of DHS policy tends to support a finding that DHS had no basis to request proof of a closed account. DHS policy states that "countable" assets are to be verified. A closed account is not a countable asset. Based on the presented evidence, it is found that DHS had no basis to request verification of a closed checking account. For good measure a second reason exists for reversing the DHS action.

The client must obtain required verification, but DHS must assist if they need and request help. BAM 130 (7/2013), p. 3. If neither the client nor DHS can obtain verification despite a reasonable effort, DHS is to use the best available information. *Id.* If no evidence is available, DHS is to use best judgment *Id.*

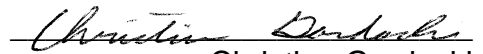
It was not disputed that Claimant's AHR reported to DHS that her father's former bank was uncooperative in verifying that the checking account was closed. DHS conceded that Claimant presented a written statement (see Exhibit 3) verifying Claimant's AHR's statement. In response to Claimant's AHR's report that she was unable to obtain verification of the closed checking account, DHS should have assisted Claimant with obtaining the checking account verification or made an eligibility decision based on Claimant's credible statement that no verification was to be had. Instead, DHS terminated Claimant's FAP eligibility and denied Claimant's MA application. The termination is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA application dated [REDACTED]/13 and process the application subject to the finding that DHS had no basis to request verification of the closed checking account;
- (2) redetermine Claimant's FAP eligibility, effective [REDACTED]/2013, subject to the finding that DHS had no basis to request verification of the closed checking account;
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/26/2013

Date Mailed: 12/26/2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CG/hw

cc:

