

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201422082
Issue No.: 1003; 2003; 3003
Case No.: [REDACTED]
Hearing Date: [REDACTED] 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 February 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) cases?

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, FIP and MA benefits.
2. On November 26, 2013, the Department sent Claimant a Verification of Employment concerning her employment at [REDACTED] that was due December 6, 2013.
3. On December 2, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting verification of her husband's wages and loss of employment by December 12, 2013.

4. On December 3, 2013, the Department sent Claimant New Hire Client Notice concerning her employment at [REDACTED] that was due December 13, 2013.
5. On December 11, 2013, Claimant submitted the completed New Hire Client Notice and Verification of Employment concerning her employment at [REDACTED].
6. The Department did not receive a response to the December 2, 2013 VCL.
7. On December 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that effective February 1, 2014, her FAP case, her FIP case and the MA cases for her and her husband were closing because she had failed to verify requested information.
8. On January 7, 2103, Claimant filed a request for hearing disputing the Department's actions.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

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.

Additionally, in a December 26, 2013 Notice of Case Action, the Department notified Claimant that her FIP and FAP cases were closing effective February 1, 2014 because she had failed to verify requested information. At the hearing, the Department testified

that the MA cases for Claimant and her husband were also closed because of the failure to verify. The Department explained at the hearing that the cases closed because Claimant had failed to verify her and her husband's employment and her husband's loss of employment.

At the hearing, Claimant testified that on December 11, 2013, she faxed to the Department the Verification of Employment form completed by her employer as well as the New Hire Client Notice she completed, along with paystubs. The Department denied receiving the documents at any time prior to Claimant's January 7, 2013 hearing request, which included copies of the documents. However, Claimant's testimony that she had faxed them to the Department was credible, particularly in light of her testimony that the Department had lost paperwork she had submitted in the past. Furthermore, a review of the documents showed that they were signed on December 10, 2013 and December 11, 2013, just before the date Claimant testified she faxed them. Under these facts, Claimant established that she provided requested verification of employment before the December 26, 2013 Notice of Case Action was sent. Therefore, the Department did not act in accordance with Department policy when it closed Claimant's cases based on her failure to verify her employment. See BAM 130 (January 2014), p. 6; BAM 220 (January 2014), p. 12.

The Department also testified that it relied on Claimant's failure to respond to the December 2, 2013 VCL in closing her cases. The VCL requested verification of Claimant's husband's wages and loss of employment. Claimant admitted that she did not respond to the VCL. She explained that her husband had lost his employment in July 2013 and had not been employed since then. The Department had testified that it requested income information concerning Claimant's husband employment based on a wage match. The Department is required to verify income identified in a wage match. BAM 802 (December 2013), p. 2. However, the Department did not present any evidence that a wage match had identified Claimant's husband as having earned income. Therefore, the Department failed to satisfy its burden that it acted in accordance with Department policy in requesting verification of employment income.

With respect to the end of employment, Claimant explained that the employer was unwilling to provide any documentation concerning her husband's end of employment. The Department may not terminate assistance because an employer or other source refuses to verify income. BEM 501 (January 2014), p. 9. When neither the client nor the Department can obtain verification despite a reasonable effort, the Department should use the best available information, or, if no evidence is available, its best judgment. BAM 130 (January 2014), p 3.

Claimant's husband credibly testified that he had previously attempted to obtain verification of end of employment from his former employer but the employer refused to provide any documentation. Claimant credibly testified that she had notified the Department when she initially applied for benefits after her husband lost his job that the former employer was not cooperative. Claimant's testimony is supported by the fact that Claimant had been approved for FIP benefits after her husband lost his

employment. Before the Department could find Claimant eligible for FIP benefits, it would have had to verify end of employment or rely on the best available evidence that employment ended. Under these facts, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in relying on the lack of a response to the VCL to close Claimant's cases.


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 closed Claimant's FIP, FAP and MA cases.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's FIP and FAP cases and her and her husband's MA cases effective February 1, 2014;
2. Issue supplements to Claimant for any FIP and/FAP benefits she was eligible to receive but did not from February 1, 2014 ongoing; and
3. Provide Claimant and her husband with MA coverage they are eligible to receive from February 1, 2014 ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 19, 2014

Date Mailed: February 19, 2014

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

ACE/tlf

cc:

