

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22485
Issue No(s): 2002, 3002
Case No.: [REDACTED]
Hearing Date: February 11, 2014
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Darryl T. 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 February 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's sister and legal Guardian, [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medicaid (MA) 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 MA and FAP recipient.
2. On October 15, 2013 the Department mailed a Redetermination (Exhibit 1 Pages 3-6), to Claimant's Guardian which she completed and returned.
3. A Verification Checklist (Exhibit 1 Pages 13-14) was mailed to Claimant's Guardian on December 18, 2013, in which Claimant was instructed to provide proof "from [REDACTED] [REDACTED] stating the account is closed, and the statement from [REDACTED] [REDACTED] and [REDACTED] by December 30, 2013.
4. Claimant's Guardian provided a copy of a [REDACTED] [REDACTED] [REDACTED] [REDACTED] statement (Exhibit 1 Page 17) from November 30, 2013, and a screen shot (Page 18) from what is presumed to be [REDACTED] [REDACTED] [REDACTED] as of December 26, 2013.

5. In a Notice of Case Action dated January 2, 2014 (Exhibit 1 Pages 7-12), Claimant's FAP was closed beginning February 1, 2014 and reporting that his MA deductible of \$ [REDACTED] was met for December 2013.
6. In a Notice of Case Action dated January 9, 2014 (Exhibit 1 Pages 19-23), Claimant's FAP was closed beginning March 1, 2014 and reporting that he was approved for the Medicaid SLMB program with a \$0.00 deductible beginning February 1, 2014.
7. On January 17, 2014 Claimant requested a hearing.

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 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.

"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.

BAM 130 instructs, with respect to the FIP, SDA, MA and AMP programs, "A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.

"The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtaining the verification."

BAM 130 does NOT place responsibility on the Department to make collateral contact for FAP applicants or recipients. For all programs, when it comes to verification, BAM 130,

"The client must obtain required verification, but you must assist if they need and request help.

"If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment."

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Verification Checklist was mailed to the Claimant's Guardian at her address of record. The evidence also establishes that the Guardian did not fully respond by the deadline. Because she did not comply by timely providing his verification, the Department properly closed his FAP.

It is noted that the Guardian testified that she submitted proof that the [REDACTED] [REDACTED] account was closed. The record contains documents that the Claimant submitted, including a bank statement, proof of her Guardianship, a copy of Claimant's VA benefits letter, and a screen shot of another bank account. There is no evidence, other than her testimony, that the [REDACTED] [REDACTED] verification was submitted. Also, the screen shot of what is believed to be the [REDACTED] [REDACTED] [REDACTED] account is insufficient because it does not identify the account holder, or even the bank.

Claimant was previously receiving benefits through the Medicaid Group 2 Aged, Blind, and Disabled program. He had a deductible of \$ [REDACTED] per month. He is now receiving benefits through the Specified Low-Income Medicare Beneficiary (SLMB) program. SLMB pays Medicare Part B premiums. To be eligible for the SLMB program, an applicant must have net income over 100% of the poverty level, but not more than 120% of poverty. Claimant is a 30% disabled veteran (See Exhibit 1 Page 15) and receives \$ [REDACTED] monthly because his disability is service-connected.

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries, also called full-coverage QMB and just QMB. Program group type is QMB.

2. Specified Low-Income Medicare Beneficiaries, also called limited coverage QMB and SLMB. Program group type is SLMB.
3. Q1 Additional Low-Income Medicare Beneficiaries, also referred to as ALMB and as just Q1. Program group type is ALMB. BEM 165.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ. Income is the major determiner of category. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. All eligibility factors must be met in the calendar month being tested. BEM 165.

Benefits of Medicare Savings Programs differ depending on the program. QMB Benefits pay Medicare premiums and Medicare coinsurances and Medicare deductibles. SLMB Benefits pay Medicare Part B premiums, while ALMB Benefits pay Medicare Part B premiums provided funding is available. The Department of Community Health decides whether funding is available. BEM 165. General information about Medicare and information about the Buy-In program is available in BAM 180.

The department makes separate Medicare Savings Programs determination for the following clients if they are entitled to Medicare Part A:

- Medicare Savings Programs-only.
- Group 2 MA (FIP-related and SSI-related).
- Extended Care (BEM 164).
- Healthy Kids.
- TMA-Plus.

Automatic QMB Person's receiving MA under the following categories and entitled to Medicare Part A are considered QMB eligible without a separate QMB determination. The QMB coverage date begins the calendar month after the processing month. The processing month is the month during which you make the eligibility determination. QMB is not available for past months or the processing month.

SLMB coverage is available for retro MA months and later months. Note: SLMB is only available for months when income exceeds the QMB limit. A person cannot choose SLMB in place of QMB in order for coverage to start sooner (example, to get retro MA). ALMB coverage is available for retro MA months and later months; however, not for time in a previous calendar year. ALMB is not approved for any month that is in a previous calendar year, even if application was made in the previous calendar year.

As stated above, the Claimant is required to provide verification of assets. His Guardian did not provide all of the required verification. Therefore, the FAP 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 closed Claimant's FAP when his assets

were not verified. It also acted in accordance with Department policy when it closed his Group 2 Medicaid benefits and approved him for SLMB benefits.

DECISION AND ORDER

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



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

Date Signed: February 12, 2014

Date Mailed: February 12, 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.

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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

DJT/las

cc:

