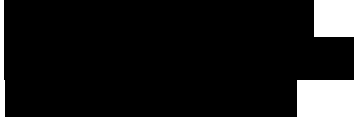


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-24495
Issue No(s): 2000; 3003
Case No.: [REDACTED]
Hearing Date: February 24, 2014
County: Wayne (55)

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 February 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 [REDACTED], Assistant Payment Worker, and [REDACTED], Assistant Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective January 1, 2014, ongoing?

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 benefits. See Exhibit 1.
2. On November 12, 2013, the Department sent Claimant a redetermination, which was due back by December 2, 2013 (benefit period ended December 31, 2013). See Exhibit A.
3. Effective January 1, 2014, Claimant's FAP benefits closed due to the failure to submit a completed redetermination. See Exhibit 1.
4. On January 23, 2014, Claimant filed a hearing request, protesting the FAP case closure and Medical Assistance (MA) benefits. See Exhibit 1.

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.

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.

Preliminary matter

On January 23, 2014, Claimant also filed a hearing request, protesting the MA benefits for her group members. See Exhibit 1. It was discovered during the hearing that Claimant and her additional group member's MA benefits closed. However, on January 21, 2014, Claimant reapplied for both FAP and MA benefits. See Exhibit 1. Due to the Claimant reapplying for MA benefits, all members in the household received MA benefits and there was no lapse of coverage. Claimant also testified that everyone in the household is receiving MA benefits.

Based on the foregoing information, Claimant's MA hearing request is DISMISSED due to lack of jurisdiction. See BAM 600 (July 2013), pp. 4-5. Even though the Claimant and her group member's MA benefits closed, her subsequent action of reapplying caused no loss of MA coverage. Thus, there was no suspension and/or termination of MA benefits and this hearing lacks the jurisdiction to address this issue.

FAP redetermination

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), 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 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, p. 2. An interview is

required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3.

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 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. 10. A Notice of Case Action (DHS-1605) is not generated. BAM 210, p. 10. BAM 210 further states how the Department completes the redetermination process. BAM 210, pp. 15-16.

In this case, Claimant was an ongoing recipient of FAP benefits. See Exhibit 1. On November 12, 2013, the Department sent Claimant a redetermination, which was due back by December 2, 2013 (benefit period ended December 31, 2013). See Exhibit A. The Department testified that it did not receive a redetermination packet before the end of the benefit period (December 31, 2013). Thus, effective January 1, 2014, Claimant's FAP benefits closed due to the failure to submit a completed redetermination. See Exhibit 1.

At the hearing, Claimant testified that she received the redetermination. Claimant testified that she completed the redetermination and mail it approximately a week after receiving it. Claimant made a copy of her redetermination, which indicated that she signed it on November 17, 2013 and provided it as evidence. See Exhibit A. Moreover, Claimant testified that she did not receive a telephone call from the Department regarding her appointment date on December 2, 2013. See Exhibit A. The Department testified that it did not contact the Claimant for the interview because it needed a submitted redetermination to conduct the interview.

It should be noted that Claimant testified that she also received verification requests from the Department regarding employment, shelter, and assets. Claimant provided the verification requests for shelter and employment, which are dated November 14, 2013. See Exhibit A. Claimant testified that she also submitted the employment and shelter verification via mail on or around December 12, 2013. Claimant testified that she did not submit the verification of assets as it contained incorrect information. The Department appeared unaware of this verification request and/or if it was in reference to the redetermination process.

Nevertheless, the Department improperly closed Claimant's FAP benefits effective January 1, 2014, ongoing. The Department testified that Claimant failed to submit a completed redetermination packet before the end of the benefit period (December 31, 2013). However, Claimant provided credible evidence and testimony that she submitted a completed redetermination before the benefit period had ended. Moreover, Claimant's evidence is supported by the fact that she submitted a copy of her submitted redetermination. See Exhibit A. The redetermination packet was signed on November 17, 2013. See Exhibit 1. Because the Claimant provided credible evidence that she

submitted the redetermination packet before the end of the benefit period (December 31, 2013), the Department improperly closed her FAP benefits effective January 1, 2014, ongoing, in accordance with Department policy. BAM 210, pp. 1-3, 10, and 15-16.

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 FAP benefits effective January 1, 2014, ongoing.

Accordingly, the Department's FAP 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 FAP case as of January 1, 2014, ongoing;
2. Begin recalculating the FAP budget for January 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2014, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request is DISMISSED due to lack of jurisdiction.


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

Date Signed: March 3, 2014

Date Mailed: March 3, 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

EJF/tlf

cc:

