

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24822
Issue No(s): 1002, 2002, 3002
Case No.: [REDACTED]
Hearing Date: February 26, 2014
County: Macomb - 12

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 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP), Food Assistance Program (FAP) and Medical Assistance (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 FIP (cash assistance), FAP and MA recipient.
2. On December 11, 2013, the Department sent Claimant a Verification Checklist (VCL) (Exhibit 1 Pages 6-7) after she reported a loss of employment. She was required to provide verification of "loss of employment at [REDACTED] by December 11, 2013."
3. On December 23, 2013, the Department sent another VCL instructing Claimant to verify her children's attendance in school by January 2, 2014.
4. In a December 26, 2013 Notice of Case Action, the Department informed Claimant that her FIP, FAP, and MA would be closed effective February 1, 2014 because she had not provided "verification of loss of employment" or "verification of school attendance" for two children.

5. On January 31, 2014, the Claimant requested a hearing (Exhibit 1 Page 16) on her benefits.

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.

“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.

The Department ended Claimant’s benefits because she had not verified her loss of employment, and because she had not verified her children’s attendance in school. Curiously, the first VCL did not mention anything about verification of the children’s attendance. Also, it is worth noting that the Notice of Case Action was dated December 26, 2013, just three days after the second VCL was mailed – and there was an intervening federal and state holiday on December 25. The Department instructed her that she had until January 2 to respond, so they acted in error by finding she had not verified the children’s attendance on December 26.

Per BEM 103, the Department is to:

“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 says:

“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 Claimant testified that she tried to get the [REDACTED] to verify her lost employment, but the funeral home was uncooperative. She provided her worker with the fax number so he could fax a form to the funeral home, which he did. The funeral home did not respond to his fax. The worker said he could not call them because he did not have a telephone number. A quick search of the internet disclosed two addresses and telephone numbers for [REDACTED] – one in [REDACTED] and one in [REDACTED]. It would not seem to be difficult for the worker to have made one or two telephone calls to attempt to verify her loss of employment, particularly when the Claimant had already noted that she had been unable to obtain verification on her own and requested help.

The issue is whether the Claimant provided timely verification in response to the request, or at least made a reasonable effort to provide verification. The evidence is persuasive that the Verification Checklist was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond to the loss of employment issue by the deadline. However, she was convincing in her explanation for why she did not respond. She called her case worker. She called her former employer. The Department knew she was having difficulty obtaining verification, and it should have done more to assist her in obtaining the required verification. She made a reasonable effort to obtain the verification that was requested.

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 benefits.

DECISION AND ORDER

Accordingly, the Department's decision **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. Redetermine Claimant's FIP, FAP, and MA benefit eligibility, effective February 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: February 28, 2014

Date Mailed: February 28, 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

DTJ/las

cc:

