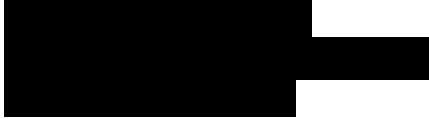


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-25063
Issue No(s): 2001; 3001; 3008
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (35)

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 27, 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], Eligibility Specialist.

ISSUES

Did the Department properly process Claimant's reported change (employment ended) in mid-August 2013?

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective October 1, 2013, 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 is an ongoing recipient of FAP. See Exhibit 1.
2. Claimant was an ongoing recipient of MA benefits. See Exhibit 1.
3. On July 2, 2013, Claimant reported that she began employment.
4. In mid-August 2013, Claimant reported to the Department that her employment had ended.

5. On November 5, 2013, Claimant again reported that she was no longer employed and the Claimant was provided with a Verification of Employment (DHS-38). See Exhibit 1. This form was due back by November 15, 2013. See Exhibit 1.
6. On November 5, 2013, the Department also sent the Verification of Employment to the employer, however, the verification was not returned by the due date.
7. On January 29, 2014, Claimant filed a hearing request, protesting her FAP allotment and MA closure. 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.

FAP benefits

First, Claimant argues that the Department failed to process her reported change (employment ended). Claimant testified that her employment had end on July 15, 2013; however, she did not report the change until mid-August 2013. Claimant understood that her August 2013 benefits included her budgeted income as she reported earnings in July 2013. However, Claimant argued that her FAP budget for September 2013, ongoing, should have excluded any earned income due to her employment ending.

On July 2, 2013, Claimant reported that she began employment. In mid-August 2013, Claimant reported to the Department that her employment had ended. Claimant testified that she finally spoke to the Department at the end of August 2013 and reported that her employment had ended. Claimant testified that the Department provided Claimant with a Verification of Employment in order for her to provide proof that her employment had ended. Claimant testified that she attempted to have her employer complete the form in September 2013, however, her employer refused. Claimant testified that she spoke to the Department in September 2013 that her former employer refused to complete the form. Claimant testified that the Department instead

requested that she provide proof of unemployment verification. Claimant testified that she obtained this verification; however, the Department did not accept the submitted proof.

Additionally, on November 5, 2013, Claimant again reported that she was no longer employed to the Department and she was provided with a Verification of Employment. See Exhibit 1. This form was due back by November 15, 2013. See Exhibit 1. On November 5, 2013, the Department also sent the Verification of Employment to the employer, however, the verification was not returned by the due date. It should be noted that the Department did not dispute the above timeline.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2013), p. 8. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 8. Earned income reporting requirements include the starting or stopping of employment. BAM 105, p. 8.

The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, pp. 6-7.

The Department uses documents, collateral contacts or home calls to verify information. BAM 130 (July 2013), p. 1. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130, p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

Finally, the Department verifies income at application and at redetermination. BEM 505 (July 2013), p. 13. The Department verifies changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. BEM 505, p. 13.

Based on the foregoing information and evidence, the Department failed to process Claimant's reported change (employment ended) in accordance with Department policy.

First, the Department acknowledged that Claimant had reported her employment ending in mid-August 2013. Moreover, Claimant provided credible testimony that her employer had refused to complete the verification of employment in September 2013. This is supported by the fact that even on November 5, 2013; the Department sent Claimant's former employer the verification form, in which the Department did not receive a response. At this point, the Department could have attempted to contact Claimant's employer to confirm whether her employment had ended and/or used the best available information at that time. See BAM 130, pp. 1-3. Moreover, Claimant notified that the Department in September 2013 that she was unable to obtain the verification despite a reasonable effort. Again, the Department should have assisted the Claimant and/or used the best available information at that time. See BAM 130, pp. 1-3.

Nevertheless, Claimant had reported a change in mid-August 2013 that her employment had ended. The Department must act on this change within 10 days. See BAM 220, pp. 6-7. September's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. BAM 220, pp. 6-7. If verification is required or deemed necessary, the Department allows the household 10 days from the date the change is reported to provide the verification. BAM 220, p. 7. The change must still affect the correct issuance month, for example the month after the month in which the 10th day after the change occurs. BAM 220, p. 7. Thus, the Department will process Claimant's change report (employment ended), subject to the Department contacting Claimant's employer and/or using the best available information in accordance with Department policy. See BAM 220, pp. 6-7.

MA benefits

In this case, Claimant was an ongoing recipient of MA benefits. Claimant testified that her MA benefits had closed effective November 1, 2013, ongoing. The Department testified that it believed Claimant's MA benefits closed effective November 1, 2013, due to her deductible not being met in at least one of the last three months. Claimant agreed that she did not submit and/or meet the deductible the last three months. However, it was discovered during the hearing that a Notice of Case Action was not generated informing Claimant that her MA benefits had closed. Additionally, an Eligibility Summary was provided, which indicated that Claimant's MA benefits did not close. See Exhibit 1. Instead, the Eligibility Summary indicated that Claimant had active Group 2 Caretaker relatives (G2C) – MA coverage with a monthly \$83 deductible for November 2013. See Exhibit 1. It should be noted that the Eligibility Summary did indicate that the G2C – MA coverage closed effective March 1, 2014, ongoing, however, that time period will not be addressed in this hearing due to lack of jurisdiction. See BAM 600 (July 2013), pp. 4-5.

The Department redetermines eligibility for active deductible cases at least every 12 months unless the group has not met its deductible within the past three months. BEM 545 (July 2013), p. 11. If a group has not met its deductible in at least one of the three calendar months before that month and none of the members are QMB, SLM or ALM eligible, the Department will automatically notify the group of closure. BEM 545, p. 11.

The Department closes an active deductible case when any of the following occur:

- No one in the group meets all nonfinancial eligibility factors.
- Countable assets exceed the asset limit.
- The group fails to provide needed information or verification.
Exception: Do not close the case just because the group fails to verify sufficient allowable medical expenses to meet its deductible.
- The group does not return the redetermination form.
- You cannot locate any of the group members.

BEM 545, p. 13. The Department use adequate notice to close the case. BEM 545, p. 13.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220, p. 2. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 4.

Based on the foregoing information and evidence, it is found that the Department failed to provide Claimant with written notice that her MA benefits had closed in accordance with Department policy. Both parties are in agreement that Claimant's MA benefits had closed. However, the Eligibility Summary provides contrary evidence that Claimant's had an ongoing MA deductible case for November 2013. See Exhibit 1. Nevertheless, both parties agreed that her benefits had closed and the Department failed to send notice of her MA closure in accordance with Department policy. See BEM 545, pp. 11-13 and BAM 220, pp. 1-4. Thus, the Department will redetermine Claimant's MA eligibility effective November 1, 2013, in accordance with Department policy.

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 (i) failed to process Claimant's reported change (employment ended) in mid-August 2013; and (ii) failed to provide Claimant with written notice that her MA benefits had closed effective November 1, 2013.

Accordingly, the Department's FAP and MA 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. Process Claimant's reported change (employment ending) in mid-August 2013, subject to the Department contacting Claimant's employer and/or using the best available information in accordance with Department policy (FAP benefits);
2. Redetermine Claimant's MA eligibility effective November 1, 2013, in accordance with Department policy;

3. Begin recalculating and issue supplements to Claimant for any MA benefits she was eligible to receive but did not from November 1, 2013, in accordance with Department policy; and
4. Notify Claimant in writing of its FAP and MA decision in accordance with Department policy.



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

Date Signed: March 4, 2014

Date Mailed: March 4, 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:

2014-25063/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/tlf

cc:

