

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-25110
Issue No(s): 1001;2001;3000
Case No.: ██████████
Hearing Date: March 3, 2014
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and his wife, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, JET Family Independence Specialist Worker.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP); Family Independence Program (FIP); 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. There was no negative action taken with respect to FAP, as Claimant did not have an active FAP case and there was no FAP application submitted within 90 days prior to Claimant's hearing request.
2. Claimant was an ongoing recipient of FIP and MA benefits.
3. On December 16, 2013, the Department sent Claimant a Redetermination for his FIP case that was to be completed and returned by January 2, 2014. (Exhibit 1, pp.1-4)

4. On January 17, 2014, the Department sent Claimant a Notice of Case Action informing him that effective February 1, 2014, ongoing, his FIP case would be closing on the basis that he did not return the redetermination form and verifications necessary to determine continued eligibility for FIP. (Exhibit 1, pp. 5-10).
5. On January 27, 2014, Claimant submitted a hearing request 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).

FAP

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 Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July, 2013), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

At the hearing, Claimant testified that his FAP case had closed in July 2013 and that he did not request a hearing at that time because he was not in need of FAP. The Department testified and Claimant confirmed that Claimant was not an active and ongoing recipient of FAP benefits and that he had not submitted an application for FAP benefits within the 90 days prior to his filing of a hearing request. Therefore, the Department had neither determined Claimant's eligibility for FAP nor had the

Department taken any negative action with respect to Claimant's FAP benefits, therefore, Claimant's hearing request with respect to FAP is **DISMISSED** for lack of jurisdiction. BAM 600, p 4.

FIP

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.

Additionally, the Department must periodically redetermine an individual's eligibility for active programs. The redetermination process includes a thorough review of all eligibility factors. BAM 210 (October 2013), p 1. A client must complete a redetermination at least every 12 months in order for the Department to determine the client's continued eligibility for benefits. BAM 210, p. 1. The Department allows clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information for FIP redeterminations. BAM 210, p.14. For FIP cases, if the redetermination is not logged in by the negative action cut off date of the redetermination month, the Department will send a Notice of Cases Action informing clients of the case closure. BAM 210, p. 10.

In this case, the Department testified that on December 15, 2013, it sent Claimant a redetermination for his FIP case that was to be completed and returned on or before January 2, 2014. The Department testified that because it did not receive a completed redetermination before the end of the certification period and because it did not receive any communication from Claimant indicating that he was unable to submit the redetermination by the due date, on January 17, 2014, it sent Claimant a Notice of Case Action informing him that effective February 1, 2014, his FIP benefits would be terminated due to a failure to return the redetermination and requested verifications. BAM 210, p. 14; (Exhibit 1, pp.5-10).

At the hearing, Claimant testified that he did not receive the redetermination form, which is why he did not complete and return the form. Claimant confirmed that the address the redetermination was sent to was his correct mailing address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Claimant did not report any problems with receiving mail and stated that he receives his mail consistently and timely. Claimant further testified that he did receive a copy of the Notice of Case Action informing him of the case closure. Although Claimant testified that he attempted to contact his Department case worker after receiving the Notice of Case Action, Claimant has not presented sufficient evidence to rebut the presumption that he received the Redetermination.

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 because the Department

did not receive the completed redetermination prior to the end of the certification period, the Department acted in accordance with Department policy when it closed Claimant's FIP case.

MA

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, Claimant submitted a hearing request because his MA benefits were terminated. Claimant stated that in November 2013, he and his family no longer had MA coverage because he attempted to make appointments with doctors after that date and was informed that he did not have insurance. Claimant testified that he did not receive any notice from the Department informing him that his MA case would be closed.

At the hearing, the Department did not present any evidence concerning Claimant's MA benefits and was unable to explain the status of Claimant's MA case. The Department was unable to refute Claimant's testimony that he did not have MA coverage since November 2013. Therefore, the Department has failed to satisfy its burden of establishing that it acted in accordance with Department policy when it processed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FAP is **DISMISSED**; the Department's decision is **AFFIRMED IN PART** with respect to FIP and **REVERSED IN PART** with respect to MA.

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, if closed, Claimant's MA case effective November 1, 2013, ongoing;
2. Issue supplements to Claimant and his family for any MA benefits that they were entitled to receive but did not from November 1, 2013, ongoing; and

3. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 7, 2014

Date Mailed: March 10, 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

ZB/tm

cc:

