

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25140
Issue No(s): 2002; 3002
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Wayne – 19

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], AP Supervisor.

ISSUE

Did the Department properly closed Claimant's MA and FAP 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. The Department sent Claimant a Verification Checklist on December 27, 2013, which was due January 6, 2014. (Exhibit 1)
2. Claimant received the checklist on January 3, 2014.
3. January 3, 2014 was the Friday before it was due the following Monday.
4. Claimant emailed a supervisor for the Department on January 4, 2014 and January 6, 2014 and her worker on January 6, 2014. (See Exhibit 3).
5. The emails indicated the Claimant wanted to get in touch with her worker, that she could not get the appropriate verification from her employer on time, and that Claimant did not receive the December 27, 2013 Verification Checklist until January 3, 2014.

6. The January 6, 2014 email stated that a snow advisory was in effect and it appeared that her employer was closed and that her worker's voicemail was full and Claimant could not leave a voicemail.
7. Claimant's worked from time to time for her employer; [REDACTED] doing substitute services for schools as needed when client schools needed temporary employees and requested such services from [REDACTED]
8. Neither the worker nor the supervisor whom Claimant emailed testified.
9. The Department did not assist Claimant' in obtaining the necessary information.
10. On January 22, 2014, the Department closed Claimant's FAP and MA benefits effective February 1, 2014.
11. Claimant requested hearing on February 4, 2014.

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.

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, the Department did not act in accordance with policy in closing Claimant's benefits. BAM 130 requires the Department to assist Claimant with obtaining the necessary information to comply with the Verification Checklist. Claimant attempted to contact her worker, whose voicemail was full, and sent emails to the Department. There is no evidence that the Department made any attempt to assist Claimant. The directive in BAM 130 is meaningless if Claimant cannot contact her worker by contacting a supervisor and when the worker's voicemail is unable to receive messages and no alternatives are made for Claimant to contact the Department by phone.

The Administrative Law Judge takes judicial notice that severe winter weather occurred throughout the relevant areas from the time the verification checklist was sent, which could have delayed holiday mail.

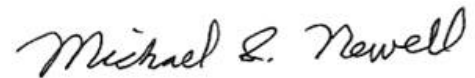
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's MA and FAP benefits.

DECISION AND ORDER

Accordingly, the Department's 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 FAP and MA benefits to the closure date and redetermine eligibility.
2. Request any additional and necessary verification from Claimant in accordance with policy.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 14, 2014

Date Mailed: March 14, 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

MSN/nk

cc:

