

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

IN THE MATTER OF:



Reg. No.: 2014-26204
Issue No.: 2002; 3000
Case No.: [REDACTED]
Hearing Date: March 6, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist (ES), [REDACTED] and Assistance Payments Supervisor (APS), [REDACTED].

ISSUE

Did the Department properly close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FAP and MA benefits.
2. On January 1, 2014, the Department closed Claimant's MA case due to the Claimant's failure to submit the required verifications.
3. On March 1, 2014, the Department closed Claimant's [REDACTED] MA case due to the Claimant's failure to submit the required verifications.

4. On October 1, 2013, the Department closed Claimant's FAP case due to excess income.
5. On September 14, 2013, the Department sent Claimant its FAP decision.
6. On January 23, 2014, the Department sent Claimant its MA decision
7. On February 5, 2014, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department 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 Department of Human Services Bridges Administrative Manual (BAM) 600 (2014), p. 5, 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.]

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

In this case, the Claimant was notified of the FAP closure on September 14, 2013, yet the Claimant did not request a hearing until February 5, 2014. The Claimant did not request for hearing within 90 days of being notified of the Department's actions. As such, this Administrative Law Judge has no jurisdiction to hear the FAP issue. Therefore, the Claimant's request for hearing on the FAP issue is hereby dismissed.

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.

In this case, the Claimant testified that she did not receive the DHS-3503, Verification Checklist nor did she receive DHS-20, Verification of Assets. The verifications were due on December 16, 2013. The Claimant did submit a DHS-20, Verification of Assets form that she completed herself on December 23, 2013. As the form was completed by the Claimant and not the financial institution, it does not constitute proper verification of her assets. The DHS-20, Verification of Assets form clearly instructs the Claimant to have the form completed by the Claimant's financial institution.

The Claimant asserted that she did not receive the DHS-3503, Verification Checklist and the DHS-20, Verification of Assets forms. Therefore, the Administrative Law Judge asked the Claimant how she was alerted to the fact that verifications were even required of her, because the evidence indicated that she did submit some verifications on December 23, 2013. The Claimant testified that she received a notice in the mail informing her that her MA case would close. That DHS-1605, Notice of Case Action is in evidence, yet it is dated as being sent on January 23, 2014. When it was pointed out to the Claimant that it is impossible to be notified a month later to submit your verifications a month previously, the Claimant indicated she was hospitalized for a while. The Claimant conceded that perhaps her [REDACTED] received the forms.

During the hearing, the Claimant testified that her address had remained the same at all times relevant to this case. 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). In this case, the Administrative Law Judge determines that the evidence is insufficient to rebut the presumption that the Claimant received the DHS-3503, Verification Checklist and DHS-20, Verification of Assets forms. This is particularly so when the Claimant did receive the DHS-1605, Notice of Case Action sent to the same address.

Bridges Administrative Manual (BAM) 130 pp. 2, 3, provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using a DHS-3503, Verification Checklist to request verification. In this case, the Department did just that. The Claimant must obtain required verification, but the Department's worker must assist if they need and request help. If neither the Claimant nor the Department's worker can obtain verification despite a reasonable effort, the Department's worker is to use the best available information. A collateral contact is a direct contact with a person, organization or agency to verify information from the

Claimant. It might be necessary when documentation is not available or when available evidence needs clarification.

BAM 130 (2012) p. 5, provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the client indicates a refusal to provide a verification, or when the time period given has elapsed and the client has not made a reasonable effort to provide it. In this case, the Administrative Law Judge determines that the time period to submit the verification had lapsed, but the Claimant had made no reasonable effort to provide the verification.

As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that it was acting in accordance with policy when taking action to close the Claimant's case for failure to submit the required verification.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed the Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/7/14

Date Mailed: 3/12/14

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

SEH/tb

cc:

