

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201434496
Issue No(s): 2003; 3003
Case No.: [REDACTED]
Hearing Date: May 19, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED], Claimant's sister and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly provide Medical Assistance (MA) benefits to Claimant?

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 ongoing recipient of FAP and MA benefits.
2. On December 2, 2013, the Department sent Claimant a Mid-Certification Contact Notice concerning his ongoing FAP and MA eligibility that was due on January 1, 2014.
3. On January 31, 2014, the Department sent Claimant a Redetermination form and notice of a redetermination telephone interview.
4. On February 4, 2014, Claimant's AHR submitted the completed Mid-Certification.

5. On February 18, 2014, the Department sent Claimant a Notice of Missed Interview concerning his failure to participate in the FAP redetermination telephone interview.
6. On February 28, 2014, Claimant's FAP case closed.
7. On April 3, 2014, Claimant filed a request for hearing 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).

Claimant's AHR filed a request for hearing concerning Claimant's MA and FAP cases.

MA Case

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The AHR testified that she was notified that Claimant's MA was unaffected. At the hearing, the Department testified that it processed the Mid-Certification it received from Claimant's AHR on February 4, 2014 and Claimant's MA case was active and ongoing. The Department may use a Mid-Certification to certify a second 12-month MA period when the group has a 24-month FAP certification. BAM 210 (October 2013), p. 10. The Department must record the completed Mid-Certification, update data collection and certify the EDBC results certified in its system by the last day of the 12th month after the completed Mid-Certification and all required verifications were received. BAM 210, p. 9.

In this case, to establish that Claimant's MA case was active, the Department presented an eligibility summary that showed that Claimant's MA case under the AD-Care program remained open for January 1, 2014 ongoing. However, the eligibility summary showed a December 17, 2013 certification date and did not appear to take into consideration the processing of the Mid-Certification that the Department received on February 4, 2014. Furthermore, under Department policy the Mid-Certification would result in certification of an MA case for a 12-month period, and in this case the Department testified that its system showed that Claimant had ongoing MA coverage with a certification period that continued only through May 31, 2014. Under the facts presented, the Department has

failed to satisfy its burden of showing that it acted in accordance with Department policy in processing the Mid-Certification and continuing Claimant's MA coverage.

There was some evidence during the hearing that, subsequent to the April 3, 2014 request for hearing, a new FAP application was filed for Claimant and, as a result of verifications not being provided in that matter, Claimant's MA case was in jeopardy of closing. Any action taken after the request for hearing is not properly before the undersigned. The Department is required to notify Claimant in writing in the event it intends to take any negative action concerning his MA case. BAM 220, pp 1-4. The AHR was advised that, if any negative notice of case action concerning Claimant's MA case is subsequently received, Claimant may request a hearing on the matter.

FAP Case

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Department testified that, although it received the Mid-Certification concerning Claimant's MA and FAP cases, it did not receive the completed redetermination concerning Claimant's FAP case. Consequently, Claimant's FAP case closed due to failure to complete the redetermination process.

For clients assigned a 24-month FAP benefit period, the Department sends a Mid-Certification, DHS-2240-A, during the 11th month of the benefit period. BAM 210 (October 2013), p. 8. For FAP only, if the Mid-Certification is not entered in the Department's system as completed and the specialist is unable to complete the form during a telephone call, home call or interview with the client, the system automatically generates a redetermination packet and shortens the FAP benefit period to twelve months. BAM 210 (October 2013), p. 11; BAM 220 (January 2014), p. 14.

In this case, the Department's position was that, even though the Mid-Certification was not timely returned, it processed the form once received on February 4, 2014. Because the worker was able to complete the Mid-Certification, the Department did not act in accordance with Department policy when it sent the FAP redetermination to Claimant and closed his FAP case for failure to complete the redetermination process.

It is further noted that none of the forms sent by the Department to Claimant were sent to Claimant's AHR. The Department verified on the record that the AHR is also identified as Claimant's authorized representative in its system, but it sent notices only to Claimant, not the AHR. The authorized representative assumes all the responsibilities of a client. BAM 110 (January 2014), p. 9. This includes the responsibility to complete all forms. See BAM 105 (January 2014), p. 7. Accordingly, the Department should send all correspondence concerning the client's case to the

authorized representative. The Department did not act in accordance with Department policy when it failed to do so.

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 satisfy its burden of showing that it acted in accordance with Department policy by continuing Claimant's MA coverage and did not act in accordance with Department policy when it closed Claimant's FAP case for failure to complete the redetermination process.

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 Claimant's FAP case effective March 1, 2014;
2. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not from March 1, 2014 ongoing; and
3. Provide Claimant with MA coverage he is eligible to receive for February 1, 2014 ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 22, 2014

Date Mailed: May 22, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

ACE/tlf

cc:

