

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

IN THE MATTER OF:



Reg. No.: 2014-6929
Issue No(s): 2002; 3000
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: Oakland (3)

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 10, 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], Assistant Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's Medical Assistance (MA) benefits effective November 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 was an ongoing recipient of his MA benefits.
2. On August 26, 2013, Claimant submitted a redetermination for his Food Assistance Program (FAP) benefits.
3. On September 13, 2013, the Department completed an in-person redetermination interview and it was discovered that Claimant had a checking account.
4. On September 13, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's checking account for his FAP and MA benefits. The form was due back by September 23, 2013. See Exhibit 1.

5. On September 16, 2013, Claimant submitted a bank statement; however, the verification did not include his name on the bank statement. See Exhibit 1.
6. On September 24, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective November 1, 2013, ongoing, due to his failure to provide verification of his bank statement. See Exhibit 1.
7. On October 3, 2013, Claimant submitted verification of his bank statement, which included his name. See Exhibit 1.
8. On October 14, 2013, Claimant filed a hearing request, protesting his MA case closure. See Exhibit 1.
9. On November 5, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on November 21, 2013.
10. On December 3, 2013, the Administrative Law Judge (ALJ) sent Claimant an Order Granting Adjournment.
11. On December 16, 2013, MAHS sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on January 6, 2014.
12. On January 9, 2014, the ALJ sent Claimant an Order Granting Adjournment.
13. On January 30, 2014, MAHS sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on February 10, 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.

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.

Preliminary matters

First, Claimant also requested a hearing to dispute his FAP case closure. See Exhibit 1. However, during the hearing Claimant testified that he is no longer disputing his FAP benefits. Thus, Claimant's FAP hearing request is DISMISSED.

Second, after receiving the bank verification on October 3, 2013, the Department testified that it noticed possible additional income from family and/or friends. On October 15, 2013, the Department sent a Quick Note requesting such verification and it was due back by October 25, 2013. See Exhibit 1. This action is subsequent to Claimant's hearing request and will not be addressed in this hearing. See BAM 600 (July 2013), pp. 4-5. This hearing decision will only address Claimant's MA case closure effective November 1, 2013, ongoing.

MA benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For MA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130 (July 2013), p. 6. If the client cannot provide the verification despite a reasonable effort, extend the time limit up to three times. BAM 130, p. 6. The Department sends a case action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 7.

In this case, Claimant was an ongoing recipient of his MA benefits. On August 26, 2013, Claimant submitted a redetermination for his FAP benefits. On September 13, 2013, the Department completed an in-person redetermination interview and it was discovered that Claimant had a checking account. On September 13, 2013, the Department sent Claimant a VCL, which requested verification of Claimant's checking account for his FAP and MA benefits. See Exhibit 1. The form was due back by September 23, 2013. See Exhibit 1. On September 16, 2013, Claimant submitted a bank statement; however, the verification did not include his name in the bank statement. See Exhibit 1. The Department testified that a few days later the Claimant called to confirm receipt of the bank verification. The Department testified it explained to the Claimant that it could not use the statement due to his name not being located on it. Subsequently, on September 24, 2013, the Department sent Claimant a Notice of Case Action notifying him that his MA benefits were denied effective November 1, 2013, ongoing, due to his failure to provide verification of his bank statement. See Exhibit 1.

Additionally, on October 3, 2013, the Department testified that the Claimant called to inquire on why his case closed. The Department testified that it could reinstate his FAP benefits due to subsequent processing but not his MA benefits if he provided the proper

documentation. On October 3, 2013, Claimant submitted verification of his bank statement, which included his name. See Exhibit 1.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (July 2013), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, pp. 11-12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, Claimant's Request for a Hearing (Exhibit 1) stated that Claimant can submit a timely hearing request on or before October 7, 2013. BAM 220, p. 11. Thus, October 8, 2013, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant provided credible evidence that he submitted the bank verification on October 3, 2013, which is before the negative action date.

Based on the foregoing information and evidence, Claimant met the verification requirement before the October 8, 2013 negative action effective date. BAM 220, p. 12. Based on the Notice of Case Action and because the Claimant submitted the VCL requirements before the October 8, 2013 negative action date, the Department improperly denied Claimant's MA benefits effective November 1, 2013, ongoing. The Department should have deleted the negative action and run his MA eligibility. See BAM 220, pp. 12-13.

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 improperly denied Claimant's MA benefits effective November 1, 2013.


Accordingly, the Department's 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. Reinstate Claimant's MA benefits effective November 1, 2013, ongoing;
2. Begin recalculating the MA budget for November 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from November 1, 2013, ongoing; and
4. Notify Claimant if writing of its MA decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP hearing request is DISMISSED.



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

Date Signed: February 12, 2014

Date Mailed: February 12, 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.

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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

EJF/tlf

cc:

