

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-016826
Issue No.: 2001; 3001
Case No.: ██████████
Hearing Date: December 22, 2014
County: Wayne-District 19 (Inkster)

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 December 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's mother and authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Manager, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

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's birthdate is ██████████.
2. On October 19, 2014, Claimant applied for FAP for her and her minor brother and for MA for only herself.
3. The Department approved Claimant's application.
4. On October 21, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting a dated letter signed by Claimant's mother concerning her contributions toward Claimant's utilities and rent, proof of shelter expenses, proof of end of employment, and proof of Claimant's brother's social security number.

5. On October 21, 2014, the Department specialist referred Claimant's case to the Office of Inspector General (OIG) for a front-end eligibility (FEE) investigation following concerns that Claimant's mother lived in the household with Claimant and her minor brother.
6. On November 3, 2014, the OIG agent completed the FEE investigation and concluded that Claimant's mother lived in the home with Claimant and, because Claimant and her brother were under ■ years of age, the mother was a mandatory FAP group member whose income and assets should be considered in calculating Claimant's eligibility for benefits.
7. On November 5, 2014, the Department sent Claimant a Notice of Case Action closing her FAP case effective December 1, 2014.
8. On November 18, 2014, Claimant requested a hearing disputing the Department's actions concerning her FAP and MA cases.

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 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 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.

Additionally, Claimant requested a hearing concerning the Department's closure of her FAP and MA cases.

MA

At the hearing, the Department acknowledged that Claimant's mother's assets and income did not affect Claimant's MA eligibility. The Department testified that, to the extent it had closed Claimant's MA case, the closure was improper and Claimant's MA case had been reinstated and Claimant had ongoing MA.

The Department was requested to provide a copy of Claimant's eligibility summary to establish the status of Claimant's MA case but failed to do so. Because the Department failed to establish that Claimant had ongoing, uninterrupted MA, the Department failed to satisfy its burden that it acted in accordance with Department policy with respect to Claimant's MA case.

FAP

The Department closed Claimant's FAP case effective December 1, 2014. The November 5, 2014, Notice of Case Action indicated that Claimant's FAP case was closing because Claimant failed to verify requested information. Under the "comments from your specialist" section of the Notice of Case Action, Claimant's specialist further explained that Claimant's case was closing because (i) her mother's income and assets had been added to Claimant's case and (ii) Claimant had failed to provide the verifications requested in the VCL due October 31, 2014. At the hearing, the Department explained that, because the FEE investigation concluded that Claimant's mother was living with Claimant and Claimant was under age ■■■, the mother was a mandatory FAP group member and her income and assets made the group ineligible for FAP benefits. The Department also explained that Claimant's failure to respond to the VCL also led to the closure of her FAP case.

Because Claimant was under age ■■■ at the time of her October 19, 2014 FAP application, if she was living with her mother, her mother would be a mandatory FAP group member and her mother's income and assets would be considered in determining Claimant's FAP eligibility. BEM 212 (July 2014), p. 1. At the hearing, Claimant's mother contended that she was not living with Claimant and her minor son at the time Claimant applied for FAP benefits on October 19, 2014. However, even assuming Claimant's mother was not living with Claimant and the younger child, the Department also relied on Claimant's failure to respond to the VCL in closing her FAP case.

With respect to the VCL, the Department established that, in response to statements by Claimant in her October 19, 2014 FAP application that her mother assisted with her household expenses, the Department sent the October 21, 2014 VCL that requested, in part, verification of the monthly contributions her mother made to Claimant. The VCL also requested verification of the social security number of Claimant's younger brother, who was included in her FAP group, shelter expenses, and Claimant's end of employment. At the hearing, the Department acknowledged that the information it retrieved from its database exchange with the Department of Labor and Economic Group showing Claimant's wage history was sufficient to establish Claimant's end of employment. The Department received a shelter verification on October 22, 2014, from

the office manager of the cooperative Claimant identified as her address. Because the October 19, 2014, FAP application includes Claimant's brother social security number (Exhibit 2, p. 8) and there was no evidence of any error or discrepancy, there was no need for verification of the social security number. BEM 223 (July 2014), p. 8. Therefore, the only verification the Department requested that was required, and was not verified by another source, concerned the contribution Claimant received from her mother for living expenses.

A donation to an individual by family or friends is the individual's unearned income, and the Department counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503 (July 2014), p. 10. In this case, Claimant's mother contended that she was not living with Claimant during the period at issue and therefore was not a member of her FAP group and her income and assets should not be considered in determining Claimant's FAP eligibility. Assuming that Claimant's mother was not a mandatory member of Claimant's FAP group, as argued by the mother, then Claimant would be required to verify any donation she received from her mother.

At the hearing, the Department denied receiving any verification from Claimant concerning the mother's contributions to Claimant. Claimant's mother was very adamant that she submitted a dated and signed letter indicating that she only paid rent and utilities directly to the landlord and that she placed this letter in the drop-box, and signed the sign-in log, sometime between November 14, 2014 and November 18, 2014, at the same time she requested a hearing. The hearing request was filed on November 18, 2014. When it was pointed out to Claimant's mother that the VCL was due on October 31, 2014, and she was asked to explain why the verifications were not provided by that date, Claimant's mother initially indicated that she was not sure why her letter had not been submitted by the due date and then stated that she was sure she had turned in the letter, and signed the sign-in log, before October 31, 2014. In light of the Department's evidence that there was no response to the VCL uploaded in Claimant's electronic data management (EDM) file and the inconsistencies in Claimant's mother's testimony concerning her timely submission of the verification of her contributions, the Department acted in accordance with Department policy when it closed Claimant's FAP case due to her failure to verify requested information concerning Claimant's mother's contributions to Claimant. In light of the conclusion that Claimant failed to timely verify requested information, it is unnecessary to address the issue of whether Claimant's mother was a mandatory member of Claimant's FAP group.

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 acted in accordance with Department policy when it closed Claimant's FAP case but failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's FAP case and REVERSED IN PART with respect to closure of Claimant's MA case.

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 case effective October 1, 2014; and
2. Provide Claimant with MA coverage from October 1, 2014 ongoing.



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

Date Signed: **12/29/2014**

Date Mailed: **12/29/2014**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]