

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000834
Issue No.: FIP
Case No.: [REDACTED]
Hearing Date: February 18, 2015
County: WASHTENAW (DISTRICT 20)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED], PATH Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and Medical Assistance (MA) benefits based on a failure to complete a Redetermination?

Did the Department properly determine Claimant's family's Food Assistance Program (FAP) monthly allotment?

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 a recipient of FIP, FAP, and MA benefits.
2. On November 10, 2014, a Redetermination form and Redetermination Telephone Interview Notice were issued to Claimant for his FIP, FAP and MA benefits, listing a due date for returning the completed form of December 1, 2014, and an appointment date of December 1, 2014.
3. In November 2014, Claimant brought the completed Redetermination form to the local Department office and was told it would have to be mailed out to be scanned into the electronic case record.

4. The Department witnesses were not sure if the Department attempted to contact Claimant for the telephone interview scheduled for December 1, 2014.
5. In December 2014, Claimant again attempted to turn in the completed Redetermination form.
6. On December 19, 2014, a Notice of Case Action was issued to Claimant stating the FIP benefits would close effective January 1, 2015, based on a failure to complete the Redetermination.
7. Claimant's MA benefits also closed effective January 1, 2015.
8. Claimant's FAP benefits were reduced effective January 2015, but no Notice of Case Action was issued to Claimant.
9. The Department acknowledged that the FAP reduction was an error and has issued a supplemental payment.
10. On January 13, 2015, Claimant filed a request for hearing contesting 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, 10-1-2014, p. 1. For FAP, a notice of case action is not sent in a few specific circumstances, including: when the FAP benefit varies from month to month within the benefit period due to changes anticipated when the case was certified, and the group was so notified at that time and when the FAP certification period has expired. BAM 220 pp. 4-5.

The Department of Human Services must periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, 7-1-2014, p. 1.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, 10-1-2014, p. 7.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if they needs and requests help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. For MA, the Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, 10-1-2014, pp. 1-8.

FAP and MA benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

On November 10, 2014, a Redetermination form and Redetermination Telephone Interview Notice were issued to Claimant for his FIP, FAP and MA benefits listing a due date for returning the completed form of December 1, 2014, and an appointment date of December 1, 2014. The Department witnesses testified that the electronic case record does not show the Redetermination form was returned. The Department witnesses were not sure if the Department attempted to contact Claimant for the telephone interview scheduled for December 1, 2014. Claimant's FIP and MA benefits closed

effective January 1, 2015, based on the failure to complete the Redetermination. A written case action notice was issued regarding the FIP closure.

The failure to complete the telephone interview for the Redetermination cannot be held against Claimant when the Department has not established that they attempted to contact Claimant for the scheduled interview.

Claimant provided credible, detailed testimony regarding his attempts to turn in the completed Redetermination form at the local Department office in November and December 2014, which then had to be mailed off to be scanned in for the electronic case record. Claimant's testimony included descriptions of multiple contacts with the local office during November 2014 through January 2015. In part, Claimant also discussed how he applied for State Emergency Relief (SER) during that time, and was told that the same verifications submitted for the SER could also be utilized for the Redetermination. Claimant provided a copy of the SER determination notice showing SER was approved December 17, 2014.

The Department witness confirmed that documents submitted at the local office would still have to be mailed off to be scanned into the electronic case record.

Additionally, it is unclear what happened with the FAP benefits for January 2015. There was no evidence any written notice of case action was issued regarding the FAP determinations. The Department indicated that the FAP monthly allotment was initially reduced for January 2015 because the FIP was incorrectly included against the FAP benefit for this month. The Department indicated that error was corrected and a supplement was issued for January 2015. However, even with the supplement, the FAP allotment for January 2015 was less than the FAP allotments for November 2014 and December 2014. The Department witnesses testified this could be due to a number of factors, but could not state what specifically happened in this case.

Lastly, it is noted that if the Department believed the Redetermination was not completed, it would be expected that the FAP benefits would close along with the MA and FIP benefits because the Redetermination was for all three programs. Therefore, if FAP benefits were certified and issued to start a new benefit period in January 2015, it would appear that the Department received the needed information to determine eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP and MA cases based on a failure to complete the Redetermination and when it determined Claimant's family's FAP monthly allotment.

DECISION AND ORDER

Accordingly, the Department's decision **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. Re-determine Claimant's eligibility for FIP, FAP, and MA, retroactive to January 1, 2015, to in accordance with Department policy.
2. Issue written notice of the determination(s) in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

CL/hj

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:

