

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004587
Issue No.: 1000, 2000, 3002
Case No.: [REDACTED]
Hearing Date: May 6, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her husband, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly determine Claimant's eligibility for Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 21, 2015, the Department mailed to Claimant a Verification Checklist (VCL) requiring her to provide "proof of all your earned and unearned income. Provide proof of the last 30 days for employment, unemployment, social security benefits, pension, etc." Her response was due by February 2, 2015. (Exhibit A Pages 31-32.)
2. On January 27, 2015, the Department mailed to Claimant a VCL requiring her to verify the value of any vehicles she and her husband owned, her citizenship, amounts they had in bank accounts, his unearned income, their vehicle ownership, and his checking account. Her response was due by February 6, 2015. (Exhibit A Pages 33-34.)

3. On January 27, 2015, the Department mailed to Claimant a Notice of Case Action (NCA) informing her that her application for FIP was denied. (Exhibit A Pages 1-4).
4. On February 4, 2015, the Department mailed to Claimant a VCL requiring her to verify her citizenship. Her response was due by February 17, 2015. (Exhibit A Pages 35-36.)
5. On February 9, 2015, the Department mailed to Claimant an NCA informing her that her FAP was denied due to failure to verify her checking account balance, vehicle value, and unearned income her husband was believed to be receiving. (Exhibit A Pages 5-9.)
6. On February 19, 2015, the Department mailed to Claimant a VCL requiring her to verify the value of any vehicles she and her husband owned, amounts they had in bank accounts, his unearned income, and his checking account. Her response was due by March 2, 2015. (Exhibit A Pages 37-38.)
7. On February 20, 2015, the Department mailed to Claimant an NCA informing her that her FAP was denied due to failure to verify her husband's unearned income. (Exhibit A Pages 10-14.)
8. On February 20, 2015, the Department mailed to Claimant a Health Care Coverage Determination Notice (HCCDN) informing her that the application for MA was denied because she failed to verify required information. (Exhibit A Pages 15-17.)
9. On March 5, 2015, the Department mailed to Claimant a VCL requiring her to verify the value of any vehicles she and her husband owned, amounts they had in bank accounts, his unearned income, their vehicle ownership, and his checking account. Her response was due by March 16, 2015. (Exhibit A Pages 39-4.)
10. On March 5, 2015, the Department mailed to Claimant an HCCDN informing her that the application for MA was denied because she failed to verify required information. (Exhibit A Pages 18-21.)
11. On March 9, 2015, the Department mailed to Claimant a Verification Checklist (VCL) requiring her to provide "proof of all your earned and unearned income. Provide proof of the last 30 days for employment, unemployment, Social Security benefits, pension, etc." Her response was due by March 19, 2015. (Exhibit A Pages 41-42.)
12. On March 11, 2015, the Department mailed to Claimant an HCCDN informing her that her husband was approved for MA but she was denied because she did not apply for coverage for herself. (Exhibit A Pages 22-26.)

13. On March 18, 2015, the Department mailed to Claimant an HCCDN informing her that her MA was approved for January 2015. (Exhibit A Pages 27-30.)
14. The Department received Claimant's hearing request on March 19, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Claimant and her husband, during the course of the hearing, indicated the only program they were contesting was FAP. They did not wish to continue contesting the issues of cash assistance (FIP) or MA. Therefore, as a preliminary matter, those issues are dismissed. The only issue addressed herein is FAP.

The Department mailed to Claimant several VCLs with varying due dates. The testimony led to the conclusion that the only detail that was unknown to the Department which caused her FAP to be denied was the fact that Claimant's husband had previously received disability payments from an insurer. Those payments stopped in October 2014. Following the hearing Claimant provided via fax from the Department a copy of a letter from the insurer confirming the payments had stopped in October 2014.

The Department was not clear in its VCLs what it was looking for regarding unearned income. Claimant and her husband had no other unearned income to disclose to the Department because it had stopped some three months before the first VCL was mailed.

Per BEM 103, 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 and the client has **not** made a reasonable effort to provide it.”

Further guidance is found in BAM 130 (10/1/14):

BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant provided timely verification in response to the request. For the client to be able to provide the necessary verification BAM 130 at page 3 requires the Department to “Tell the client what verification is required, how to obtain it, and the due date . . .” The VCLs regarding unearned income were ambiguous regarding the verification that was required. Because they were ambiguous, Claimant was unable to timely comply.

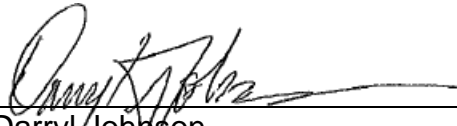
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant’s application for FAP.

DECISION AND ORDER

Accordingly, the Department’s decision is **REVERSED** with respect to FAP. The matters of FIP and MA are **DISMISSED**.

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. The Department shall initiate a redetermination of Claimant's eligibility for FAP benefits beginning January 21, 2015.
2. Issue a supplement to Claimant for any benefits improperly not issued.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

DJ/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

