

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-003838
Issue No.: 3001; 2001
Case No.: ██████████
Hearing Date: April 20, 2015
County: Wayne-District 31 (Grandmont)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's applications for 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 May 22, 2014, Claimant applied for FAP and MA.
2. On May 24, 2014, the Department denied Claimant's application on the basis that Claimant was deceased.
3. On January 27, 2015, Claimant reapplied for FAP and MA.
4. On January 29, 2015, the Department denied Claimant's application on the basis that Claimant was deceased.
5. On March 6, 2015, Claimant reapplied for FAP and MA and was approved.

6. On March 10, 2015, Claimant filed a request for hearing contending that he had been improperly denied FAP and MA since March 2014.

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 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.

The evidence at the hearing established that Claimant had applied for MA and FAP on May 22, 2014, and on January 27, 2015. On both occasions, he was denied because the Department concluded, based on a federal database match, that he was deceased. When Claimant reapplied on March 6, 2015, he was finally approved.

Claimant requested a hearing disputing the Department's denial of his prior MA and FAP applications. The Department acknowledged that it received MA and FAP applications on May 22, 2014, and January 27, 2014, and that it erred when it denied the applications on the basis that Claimant was deceased because, clearly, he was not deceased. However, it argued that Claimant's hearing request was untimely with respect to the May 22, 2014, application.

A client has 90 calendar days from the date of the written notice of case action to request a hearing; the request must be received in the local office within the 90 days. BAM 600 (March 2014), p. 6. Claimant acknowledged receiving the May 28, 2014, Notice of Case Action denying the FAP application. Because Claimant's March 10, 2015, request for hearing was not filed within 90 days of the May 28, 2014, Notice of

Case Action, Claimant's hearing request concerning the denial of the May 22, 2014, application is not timely.

However, Claimant's hearing request is timely with request to his January 27, 2015, MA and FAP applications. The Department did not provide a copy of the January 29, 2015, Notice of Case Action denying that application but testified that the application was denied because Claimant was deceased and acknowledged that the application was denied in error. Therefore, the Department did not act in accordance with Department policy when it denied the January 27, 2015, FAP and MA applications. Claimant is advised that, if he is eligible for MA under the January 27, 2015, application, he can file an application for retroactive MA coverage for the three months prior to the application (September 2014 to December 2014).

Although Claimant testified that he had filed other FAP and MA applications that had been improperly denied by the Department on the basis of his being deceased, pointing to a June 2014 Notice of Case Action to support his testimony, the hearing request with respect to a June 2014 Notice of Case Action was also untimely. Claimant did not present any evidence of other applications denied by the Department within 90 days of his March 10, 2015, hearing request other than the January 27, 2015, application discussed above.

Because Claimant's hearing request was not timely with respect to the May 28, 2014, or June 2014 Department Notices of Case Action, Claimant's hearing request is dismissed with respect to those applications.

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 but the Department did not act in accordance with Department policy when it denied Claimant's January 27, 2015, FAP and MA application.

DECISION AND ORDER

Claimant's hearing request with respect to the May 2014 and June 2014 applications is untimely and accordingly DISMISSED.

The Department's denial of Claimant's January 27, 2015, FAP and MA application 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. Reregister and reprocess Claimant's January 27, 2015, FAP and MA application;
2. Issue supplements to Claimant for FAP and/or MA benefits that he is eligible to receive but has not from the date of application ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/29/2015**

Date Mailed: **4/29/2015**

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 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.

