

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 15-008577
Issue No.: 2000, 2001, 3001
Case No.: ██████████
Hearing Date: June 29, 2015
County: WAYNE-DISTRICT 19
(INKSTER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Medical Assistance due to failure to complete the redetermination?

Did the Claimant file a timely hearing request regarding the Claimant's application for Medical Assistance on January 1, 2015?

Did the Claimant properly file a timely hearing request regarding her Food Assistance?

FINDINGS OF FACT

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

1. The Claimant was sent a redetermination to complete regarding her medical assistance for her newborn son on April 14, 2015 with a May 1, 2015 due date. Exhibit 3.
2. On May 18, 2015 the Department issued a Health Care Determination Notice closing the Claimant's Medical Assistance for failure to complete the

redetermination. The closure was effective June 1, 2015. The redetermination was sent to the Claimant's correct address. Exhibit 2.

3. The Claimant applied for Medical Assistance for her family on January 20, 2015. A Verification Checklist was sent to the Claimant on February 9, 2015 with a due date of February 19, 2015. The verifications were not received by the Department and the application was denied on February 20, 2015 by Health Care Determination Notice effective January 1, 2015. Exhibit 1.
4. The Department did not present any evidence regarding the Claimant's request for hearing regarding the denial of her Food Assistance application.
5. The Claimant filed a request for hearing on May 28, 2015 requesting a hearing regarding her Medical Assistance and Food Assistance benefits being closed or denied.

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.

In this case, the Claimant received the redetermination regarding her newborn son's redetermination for Medical Assistance and failed to return the redetermination by the due date. The Claimant acknowledged that she did not complete the redetermination and thus the case was closed. Exhibits 2 and 3. Based upon the evidence presented, it is determined that the Department properly closed the Claimant's Medical Assistance case for failure to complete the redetermination. As explained at the hearing, the redetermination must be completed by the due date to avoid case closure and if the

Claimant needs assistance with completion of the redetermination, she may request assistance from the Department. The Claimant may reapply at any time for Medical Assistance. BAM 130 (October 2014).

The Claimant applied for Medical Assistance on January 1, 2015 and never completed the Verification Checklist. The Department issued a Health Care Determination Notice on February 20, 2015 denying the application effective January 1, 2015. The Claimant's hearing request dated May 28, 2015 as regards this application was untimely as it was not filed and received by the Department within 90 days of the date of the Health Care Determination Notice. Department policy in BAM 600 governs when a hearing request must be filed.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (October 2014), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. BAM 600, (April 2015)

Lastly, the Claimant also requested a hearing on the Department's denial of the Claimant's application for Food Assistance. No evidence was presented by the Department on this issue due to the fact that it overlooked the request for a hearing being raised on that issue. The Department had no evidence to present and thus the undersigned did not make inquiry as to why the Food Assistance was denied. Based upon no evidence being presented by the Department, the Department did not meet its burden of proof to demonstrate whether its denial was in accordance with Department policy. Therefore, the Department is to reinstate the Claimant's last (latest application) for Food Assistance and reprocess the application to determine eligibility. The Department in doing so shall also consider if the hearing request of the Claimant in this case dated received by the Department May 28, 2015 was timely as regarding the denial of the Food Assistance application.

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 the Claimant's Medical Assistance for her infant son for failure to complete the redetermination.

The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's Food Assistance application.

The Claimant's hearing request regarding her January 1, 2015 application for Medical Assistance was untimely and must be dismissed.

DECISION AND ORDER

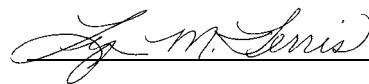
Accordingly, the Department's decision is

AFFIRMED IN PART with respect to the closure of the Medical Assistance case for failure to complete the redetermination; and,

REVERSED IN PART with respect to the denial of the Claimant's last Food Assistance application.

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 reinstate the Claimant's latest Food Assistance application and if the hearing request is timely, shall reprocess the case to determine eligibility.
2. It is also ordered that the Claimant's hearing request regarding denial of Claimant's January 1, 2015 Medical Assistance application is hereby **DISMISSED** as untimely.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/7/2015**

Date Mailed: **7/7/2015**
LMF / cl

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:

[REDACTED]