

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015096
Issue No.: 2003; 3003
Agency Case No.: [REDACTED]
Hearing Date: October 8, 2015
County: WAYNE (17) Greenfield/Joy

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 October 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED], and Claimant's spouse/interpreter, [REDACTED] (witness). Participants on behalf of the Department of Health and Human Services (Department or MDHHS) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits effective July 1, 2015?

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 is an ongoing recipient of FAP benefits. See Exhibit B, p. 43. However, Claimant did not receive FAP assistance from July 1, 2015, to August 26, 2015. See Exhibit B, p. 43.
2. Claimant and her additional group members were ongoing recipients of MA benefits. See Exhibit B, pp. 8-37.
3. On May 12, 2015, the Department sent Claimant a redetermination (DHS-1010) (review MA/FAP eligibility), which was due back by June 9, 2015. See Exhibit B, pp. 1-7.
4. On or around May 16 or 17, 2015, Claimant/witness indicated that they faxed the redetermination to the Department.

5. The Department testified that it did not receive the redetermination before the end of the benefit period (June 30, 2015).
6. The Department closed Claimant's FAP and MA benefits effective July 1, 2015.
7. On August 18, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2015 and July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

A complete redetermination is required at least every 12 months. BAM 210 (April 2015 and July 2015), p. 1.

For FAP cases, 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. If the client does not begin the redetermination process, the Department allows the benefit period to expire. BAM 210, p. 2. Moreover, an interview is required before denying a redetermination even if it is clear from the DHS-1010/1171 or other sources that the group is ineligible. BAM 210, p. 3. For FAP telephone interviews, the individual interviewed may be the client, the client's spouse, any other responsible member of the group or the client's authorized representative. BAM 210, p. 4. If the client misses the interview, the Department sends a DHS-254, Notice of Missed Interview. BAM 210, p. 4.

For MA cases, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 2. Also, the renewal month is 12 months from the date the most recent complete application was submitted. BAM 210, p. 2. The Department does not require an in-person interview as a condition of eligibility of MA benefits. BAM 210, p. 4.

A redetermination/review packet is considered complete when all of the sections of the redetermination form including the signature section are completed. BAM 210, p. 10. When a complete packet is received, the Department records the receipt in its system as soon as administratively possible. BAM 210, p. 10. If the redetermination is submitted through MI Bridges, the receipt of the packet will be automatically recorded. BAM 210, p. 10.

For FAP cases, if the redetermination packet is not logged in by the last working day of the redetermination month, the Department automatically closes the Eligibility Determination Group (EDG). BAM 210, p. 10. A DHS-1605, Notice of Case Action, is not generated. BAM 210, p. 10. For MA cases, benefits are not automatically terminated for failure to record receipt of the renewal packet. BAM 210, p. 11.

In this case, the Department sent Claimant a redetermination (DHS-1010) on May 12, 2015, which was due back by June 9, 2015. See Exhibit B, pp. 1-7. The Department testified that it did not receive the redetermination before the end of the benefit period (June 30, 2015). Moreover, the Department testified that Claimant presented a redetermination at the pre-hearing conference (dated August 26, 2015), but it was not signed. See Exhibit A, p. 1 (Hearing Summary). The Department testified that it closed Claimant's FAP and MA benefits effective July 1, 2015, due to the failure to complete the redetermination.

In response, on or around May 16 or 17, 2015, Claimant and her witness testified that they faxed the redetermination to the Department. However, Claimant/witness testified that they did not have a copy of the fax and/or redetermination allegedly sent to the Department.

Additionally, the Department presented as evidence Claimant's correspondence history. See Exhibit A, pp. 4-6. A review of the correspondence history shows that a DHS-254, Notice of Missed Interview, was allegedly sent to Claimant on June 9, 2015 and two Health Care Coverage Determination Notices (determination notices) were allegedly sent on June 15 and 19, 2015. See Exhibit A, pp. 4-5. However, the Department did not provide the actual copies of the above documentation. In fact, Claimant/witness argued that they did not receive the above documentation, other than the redetermination.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's/group member's FAP and MA benefits effective July 1, 2015. It is found that Claimant rebutted the presumption of proper mailing. The Department failed to present

supporting documentation to show that the Notice of Missed Interview and the determination notice were properly addressed to the Claimant. Such documentation is critical because policy dictates that the Department send a DHS-254, Notice of Missed Interview (for FAP cases) and a determination notice to the Claimant. See BAM 210, p. 4 and BAM 220 (April 2015 and July 2015), pp. 1-2 (Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action). These documents would have notified Claimant that the Department did not receive the redetermination and/or for her to reschedule her missed interview before the benefit period had ended. Because the Claimant rebutted the presumption of proper mailing and the Department failed to satisfy its burden of showing that it properly sent MDHHS correspondence to the Claimant, it improperly closed Claimant's MA and FAP benefits effective July 1, 2015, in accordance with Department policy. See BAM 105, p. 8; BAM 210, pp. 1-11; and BAM 220, pp. 1-2.

DECISION AND ORDER

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/group member's FAP and MA benefits effective July 1, 2015.

Accordingly, the Department's FAP and MA decision 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. Reinstate Claimant's FAP/MA cases as of July 1, 2015;
2. Begin recalculating the FAP/MA budget for July 1, 2015, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP/MA benefits she was eligible to receive but did not from July 1, 2015, ongoing; and
4. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/13/2015**

EJF/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:

