

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-015856
Issue No.: 2001;3001
Agency Case No.: ██████████
Hearing Date: October 26, 2015
County: Wayne-District 49
Macomb- District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

Following Petitioner'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 three way telephone hearing was held on October 26, 2015, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department was represented by ██████████ ██████████, Family Independence Manager (Wayne County District 49) and ██████████ ██████████, Hearings Facilitator (Macomb County District 12).

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of FAP and MA benefits.
2. In connection with a redetermination, Petitioner's eligibility for FAP benefits was reviewed.
3. On August 14, 2015, the Department sent Petitioner a Notice of Case Action informing him that effective August 1, 2015, his FAP case closed on the basis that he did not provide the Department with the proof of information that was requested. (Exhibit A)

4. On August 14, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that effective September 1, 2015, ongoing, MA coverage for himself and his child would be denied on the basis that he failed to verify or allow the Department to verify information necessary to determine eligibility for MA. (Exhibit B)
5. On August 28, 2015, Petitioner requested a hearing disputing the Department's actions.

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2015), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to MA cases, clients are given 10 calendar days to provide the verifications requested by the Department. BAM 130, pp.7-8. If the client cannot provide the

verification despite a reasonable effort, the Department is to extend the time limit to submit the verifications up to two times. BAM 130, p. 7-8. Extensions may be granted when the client or authorized representative make a request, when the need for the extension and the reasonable efforts taken to obtain the verifications are documented, and every effort by the Department was made to assist the client in obtaining the verifications. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p.7-8. The Department will send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, p. 8.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp.6- 7. However, FAP benefits stop at the end of the benefit period unless a redetermination is completed, all verifications are received and a new benefit period is certified. BAM 210 (April 2015), p 2.

In this case, the Department conceded at the hearing that the closure of both Petitioner's FAP and MA cases was improper. The Department testified that upon receiving Petitioner's hearing request, his case file was reviewed and it was determined that the verification checklist sent in connection with the FAP redetermination was insufficient and did not contain the correct information to allow Petitioner to respond. The Department also stated that it failed to respond to Petitioner's request for assistance in obtaining the verifications that had been requested. Furthermore, the Department stated that there was no verification checklist issued with respect to Petitioner's MA case, so a case closure based on a failure to verify would not be proper or in accordance with Department policies. The Department acknowledged that Petitioner's FAP and MA cases should be reinstated effective the date of closure.

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 based on the evidence presented for review and the Department's testimony at the hearing, the Department did not act in accordance with Department policy when it closed Petitioner's FAP and MA cases.

DECISION AND ORDER

Accordingly, the Department's 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 Petitioner's FAP case effective August 1, 2015;
2. Issue FAP supplements to Petitioner from August 1, 2015, ongoing;
3. Reinstate Petitioner and his child's MA cases effective September 1, 2015;
4. Provide Petitioner and his child with MA coverage from September 1, 2015, ongoing; and
5. Notify Petitioner in writing of the Department's actions.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/30/2015**

Date Mailed: **10/30/2015**

ZB / 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.

