

**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.: 15-016940
Issue No.: 2002;3002
Agency Case No.: [REDACTED]
Hearing Date: November 05, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 telephone hearing was held on November 5, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED]

[REDACTED] The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close petitioner's Food Assistance Program (FAP) and Medical Assistance (MA) benefit case for failing to return proper verification?

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 a FAP and MA recipient.
2. On August 18, 2015, Petitioner was sent a DHS-3503, Verification Checklist (VCL) that requested, among other things, verification of a checking account.
3. Verification for the checking account was stated to include a current statement from the bank.
4. On August 26, 2015, Petitioner returned a transaction statement from the bank in question that contained her account number as listed on her redetermination paperwork, gave balance information, and was current.

5. DHS rejected this statement because it did not have a bank name and was a “transaction history” and not a “statement”.
6. DHS did not notify Petitioner that the document was rejected or that it was felt to be insufficient.
7. On September 2, 2015, the Department issued a notice of case action closing Petitioner’s FAP benefit case for failing to return required information.
8. On September 21, 2015, Petitioner requested a hearing.

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.

BEM 400, pg. 59 (2015) states that a written statement from a financial institution is adequate for verifying a checking account. “Statement” is defined by Black’s Law Dictionary (7th. Ed.) as a formal and exact presentation of the facts. Therefore, the term “written statement” absent any further definition in policy would be a written, formal and exact presentation of the facts.

Petitioner returned such a document—it was formal, gave the exact bank account status, contained the bank account numbers as Petitioner had given during the redetermination, and contained other trackable data. The only flaw in the document, per Department testimony, was that it lacked an identifiable bank name.

At no point in policy is a statement with a visible bank name required to constitute adequate verification. Furthermore, the VCL did not request a statement with a visible bank name; it requested a statement from a financial institution. There is no dispute that Petitioner gave the Department a statement (as strictly defined) from a financial institution. If the Department intended policy to be specific, policy could have been written in a more specific manner—any vagaries in policy must thus be held against the Department.

Furthermore, at no point did the Department contact the Petitioner before case action and let her know that the returned document was flawed. If the Department truly felt the document in question was insufficient, the correct action was to notify the Petitioner and attempt to remedy the situation, not immediately pend the case to close.

Per BAM 130, if neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. At no point was there a suggestion that Petitioner was not attempting to obtain verification with reasonable effort. As such, the Department was bound to use the document in its possession (as the best available information), or help to obtain a correct document.

Helping to obtain a correct document could be as simple as notifying the Petitioner exactly what was needed, not relying on a vague request of a “statement from a financial institution”—a description for which the document Petitioner submitted certainly fit.

In short, the Department request was vague, at best. The document Petitioner returned fit the letter of the request, and therefore cannot be held against the Petitioner. If the Department wanted more specific documentation, more specific documentation could have been requested. No such request was made. If that documentation was unobtainable, the Department was bound to use the information it already had (in this case, the document returned by the Petitioner), provided Petitioner had made a reasonable effort to obtain verification.

For these reasons, the undersigned cannot hold that the Department followed policy when it closed Petitioner’s benefit case.

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 closed the benefit cases in question.

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. Reopen Petitioner's FAP and MA benefit cases retroactive to the date of negative action.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/1/2015**

Date Mailed: **12/1/2015**

RJC/tm

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:

