

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000830
Issue No.: 2002, 3000
Case No.: [REDACTED]
Hearing Date: February 18, 2015
County: Kent-District 1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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. After due notice, a telephone hearing was held on February 18, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) 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. Claimant was an on-going MA and FAP recipient.
2. On February 11, 2014, the Department mailed to her a Redetermination notifying her of a telephone interview scheduled for March 3, 2014, regarding her FAP. (Exhibit A Page 21.) The Department also mailed a Redetermination (Exhibit A Pages 22-25).
3. On March 3, 2014, the Department closed Claimant's FAP effective April 1, 2014, because she did not participate in a scheduled interview. (Exhibit A Page 26.)
4. On October 14, 2014, the Department mailed a Redetermination (Exhibit A Pages 4-9) which was due by November 3, 2014.

5. On November 3, 2014, the Department received a copy of the Redetermination which included a note requesting an extension and noting she would be hospitalized for three to four weeks. (Exhibit A Pages 10-15.)
6. On November 15, 2014, the Department mailed a Health Care Coverage Determination Notice (Exhibit A Pages 18-20) informing her the MA would be closed as of December 1, 2104, because the Redetermination form was not returned.
7. The Department received Claimant's hearing request on January 15, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

FAP

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (10/1/14), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a notice on March 3, 2014, informing her that her FAP would be closed. She did not request a hearing within 90 days of that notice. The undersigned lacks the jurisdiction to hear any issues regarding FAP.

MA

Per BEM 103, the Department is to:

“Send a negative action notice when:

“The client indicates refusal to provide a verification, **or**

“The time period given has elapsed and the client has **not** made a reasonable effort to provide it.”

The Redetermination was mailed on October 14, 2014, with a due date of November 3, 2014. Claimant submitted the form by the due date, but it was not complete. Claimant testified convincingly that she had called the Department repeatedly, asking for help in understanding what the Department needed for her to continue being eligible for MA.

BAM 130,

“The client must obtain required verification, but you must assist if they need and request help.

“If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.”

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Redetermination was mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond by the deadline. However, she was convincing in her explanation for why she did not respond. She repeatedly called her case worker. She requested help from her case worker. The Department should have attempted to assist her in obtaining the required verification.

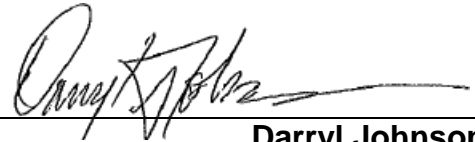
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, the request for a hearing on FAP is dismissed due to lack of jurisdiction. The Department's decision is **REVERSED** with respect to MA.

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 initiate a redetermination as to whether Claimant is entitled to MA benefits as provided by applicable policies, effective December 1, 2014.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/23/2015**

Date Mailed: **2/23/2015**

DJ/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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:

