

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003383
Issue No.: 2000, 3002
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Saginaw

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits?
Did the Department take any negative action regarding Medical Assistance (MA)?

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 FAP recipient.
2. On February 9, 2015, the Department mailed to Claimant a Notice of Case Action advising him that his FAP would be reduced to \$ [REDACTED] per month beginning February 1, 2015.
3. Also on February 9, 2015, the Department mailed to Claimant a Change Report for him to update information regarding his household income and expenses among other data.
4. On February 9, 2015, Claimant submitted via fax a copy of money orders (Exhibit A Pages 12-13) showing the payee, the amount, the purpose, the payor, and the address, in an attempt to verify his rent expense.

5. On February 11, 2015, the Department mailed to Claimant a note that rent receipts he had submitted were insufficient to verify his rent expense.
6. Claimant's landlord is a trustee of an irrevocable trust. The landlord lives out of state, and has not provided Claimant with a telephone number.
7. On February 12, 2015, the Department received a hearing request from Claimant, asking for a hearing on FAP and MA.
8. Claimant has not applied for MA in more than a year, and no negative action had been taken on any MA application for Claimant in more than 90 days prior to his hearing request.

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.

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 had no reason to take any action regarding MA because Claimant had not submitted an application for MA in more than a year. There is no evidence that the Department took any action on MA within the 90 days preceding the hearing request.

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.”

Further guidance is found in BAM 130:

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. It will be noted that the Department did not provide the original verification request in its evidence packet. It provided the fax that Claimant submitted with the copies of the money orders. He testified that on two occasions he had provided a copy of his lease, and the last time he mistakenly provided the original lease rather than a copy. On his fax he noted, “What happened to the lease I turned in last year?” He also wrote, “DHS has accepted just a receipt portion from me in the past. I wish you wouldn’t have waited until the last day of . . . to notify me that you weren’t.” While unartfully stated, Claimant was asking the Department for help. The Department was requesting verification of his rent expense. As stated in BEM 554 (10/1/14) at page 14, an acceptable verification source of rent includes “cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the

expense, the amount of the expense, the expense address if verifying shelter, the provider of the service, and the name of the person paying the expense.” All of that information is included in the two-page fax Claimant submitted.

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 reduced Claimant’s FAP benefits.

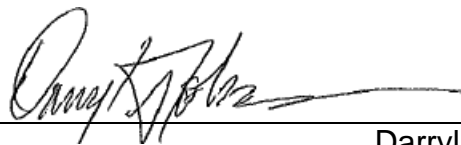
Claimant’s request for a hearing on the issue of MA was not timely and is, therefore, **dismissed** for lack of jurisdiction.

DECISION AND ORDER

Accordingly, the Department’s decision is **REVERSED** with respect to FAP.

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 of Claimant’s eligibility for FAP benefits beginning February 1, 2015.
2. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: **4/20/2015**

Date Mailed: **4/20/2015**

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 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:

