

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

IN THE MATTER OF:

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Reg. No.: 15-006378
Issue No.: 2004;3002;6000
Case No.: ██████████
Hearing Date: May 27, 2015
County: Wayne PTP

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on May 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband ██████████ ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Success Coach from Pathways to Potential.

ISSUE

Did the Department properly process Claimant's Child Development and Care (CDC); Medical Assistance (MA); and Food Assistance Program (FAP) 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 ongoing recipient of MA benefits.
2. On February 5, 2015, Claimant submitted an application for MA on behalf of her husband to have him added to her MA case. (Exhibit A)
3. The Department failed to process Claimant's request for MA coverage on behalf of her husband.
4. Claimant was an ongoing recipient of FAP benefits.

5. On February 11, 2015, the Department sent Claimant a Verification Checklist (VCL) instructing her to submit proof of her husband's income by February 23, 2015. (Exhibit B)
6. On March 6, 2015, the Department sent Claimant a Notice of Case Action informing her that effective April 1, 2015, her FAP case would be closed on the basis that she failed to return verification of her husband's income. (Exhibit C)
7. On April 17, 2015, Claimant requested a hearing disputing the Department's actions.
8. There was no issue with Claimant's CDC benefits as she checked the CDC box in error on her 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).

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The hearing was requested to dispute the Department's action taken with respect to Claimant's CDC benefits. Shortly after commencement of the hearing, Claimant testified that she now understood the actions taken by the Department with respect to her CDC case and stated that she checked the CDC box in error on her hearing request. Claimant testified that there was no issue concerning her CDC benefits and stated that she did not wish to proceed with the hearing with respect to CDC. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

MA

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, when the Department receives an application for assistance, it is to be registered and processed in accordance with Department policies. For MA cases, the date the online request is submitted is the date of application for a member add. BAM 110 (July 2014), p. 7. Once an application is registered, the Department must certify eligibility results for each program requested within the applicable standard of promptness (SOP). The SOP begins the date the department receives an application/filing form, with minimum required information. The SOP is 45 days for an application for MA benefits, unless an exception applies. BAM 115 (July 2015), pp. 1,15-16. The Department is to notify clients in writing of positive and negative actions by generating the appropriate notice of case action, which is printed and mailed centrally from the consolidated print center. A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. After processing an initial application, the Department will notify clients of the approval or denial. BAM 115, pp. 1,23-24;BAM 220 (April 2015), pp. 1-3;19-20.

In this case, Claimant requested a hearing disputing the Department's actions with respect to her MA case. Claimant was an ongoing recipient of MA benefits and stated that in January 2015 her husband went to the hospital and was informed that he did not have any active MA coverage. Claimant testified that on February 5, 2015, she submitted an application for MA to have her husband added on to her active MA case. The Department confirmed that the application was received and provided it for review at the hearing. (Exhibit A). At the hearing, the Department testified that the application was registered and that as of the hearing date was still in pending status with no decision yet issued. The Department stated that the application was in pending status due to verifications that were requested; however, the Department did not present any evidence that a VCL was issued with respect to Claimant's husband's MA application, what verifications were requested, and what verifications, if any were submitted. The Department remained unable to explain why Claimant's application was still pending and why Claimant's husband's MA eligibility had not yet been determined. There was also no evidence presented that the Department issued an eligibility notice concerning the application.

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 failed to process Claimant's MA application.

FAP

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), 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 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.

In this case, the Department initially testified that after receiving Claimant's MA application, it reviewed Claimant's FAP case and found that Claimant's husband also needed to be added as a group member to her FAP case, so it sent Claimant a VCL instructing her to submit proof of her husband's income by February 23, 2015. (Exhibit B). The Department stated that because it did not receive the requested information by the due date and because it did not receive any communication from Claimant indicating she was having difficulty obtaining the verifications, it sent Claimant a Notice of Case Action on March 6, 2015, informing her of the case closure due to a failure to verify. (Exhibit C).

At the hearing, Claimant disputed the Department's testimony that her husband had not been included as a FAP group member prior to the MA application and provided a previously issued Notice of Case Action listing Claimant's husband as a FAP group member in support of her testimony. (Exhibit 2). Claimant confirmed receiving the VCL and stated that in response, she forwarded the VCL to her husband's employer who provided the Department with the requested information on February 19, 2015. Claimant testified that after the employer sent the income information to the Department, the employer contacted Claimant to let her know that the information was submitted. Claimant presented an email for review, which she testified she received from her husband's employer confirming that the paystubs were sent to the Department on February 19, 2015. (Exhibit 1).

There was sufficient evidence presented that Claimant made reasonable efforts to return the requested verifications by the due date and did not indicate a refusal to do so. Therefore, 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 FAP case on the basis that she failed to return requested verifications.

DECISION AND ORDER

Accordingly, the hearing request with respect to CDC is **DISMISSED** and the Department's MA and FAP decisions are **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. Register and process Claimant's February 5, 2015, application for MA, to determine Claimant's husband's eligibility for MA benefits under the most beneficial category;
2. Provide Claimant's husband with any MA coverage that he was entitled to receive but did not from the application date, ongoing;
3. Reinstate Claimant's FAP case effective April 1, 2015;
4. Issue FAP supplements to Claimant from April 1, 2015, ongoing; and
5. Notify Claimant of its decisions in writing.



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

Date Signed: **6/5/2015**

Date Mailed: **6/5/2015**

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.

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

