

**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.: 15-009493
Issue No.: 2000, 3002, 3011, 6001
Agency Case No.: [REDACTED]
Hearing Date: July 23, 2015
County: Genesee (6) Clio Rd

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 July 23, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Claimant's [REDACTED] son, [REDACTED], was also present. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator, and [REDACTED], Lead Worker, Office of Child Support (OCS).

ISSUES

1. Is there jurisdiction to review any contested case action(s) regarding the Medical Assistance (MA) program?
2. Did the Department properly determine eligibility for the Food Assistance Program (FAP)?
3. Did the Department properly determine eligibility for the Child Development and Care (CDC) program?

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 and her children received or are ongoing recipients of MA, CDC, and FAP benefits.
2. Claimant has been in non-cooperation status with the OCS regarding her child [REDACTED] since January 4, 2014.

3. Claimant was also previously in non-cooperation status with the OCS regarding another child, [REDACTED].
4. On March 24, 2015, a Verification Checklist was issued to Claimant stating verifications were needed for the FAP and CDC cases by the April 3, 2015, due date, specifically verification of wages and loss of employment.
5. On April 6, 2015, a Notice of Case Action was issued to Claimant stating: CDC was denied for [REDACTED] from December 28, 2014, through March 21, 2015, based on a lack of need for CDC services; CDC was approved for four other children starting April 19, 2015, based on need due to an approved activity; and the FAP case would close effective May 1, 2015, based on a failure to cooperate with OCS as well as a failure to provide requested verification.
6. On April 15, 2015, a Notice of Case Action was issued to Claimant stating CDC was denied for four children from February 8, 2015, through March 31, 2015, due to a lack of need for CDC services and approved for those four children effective May 3, 2015, based on need due to an approved activity.
7. On April 28, 2015, a Verification Checklist was issued to Claimant stating verifications were needed for the CDC case by the May 8, 2015, due date, specifically information about current address and phone number.
8. On May 15, 2015, a Notice of Case Action was issued to Claimant stating the CDC case closed for the four listed children effective May 31, 2015, based on a failure to provide verification to locate household.
9. On May 20, 2015, and May 27, 2015, Health Care Coverage Determination Notices were issued to Claimant indicating MA coverage was denied for four of her children for September 2014, because they are eligible for this program in another case.
10. Claimant and her children have Medicaid coverage under several MA program types as applicable for each individual, with no gaps in coverage dates.
11. On June 2, 2015, Claimant filed a hearing request contesting the Department's actions regarding MA, CDC, and FAP.

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).

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.

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. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2014), 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.]

Claimant testified that at one point last year, around August through November, the doctor's office would not see her children because they did not have MA coverage. Claimant indicated the MA coverage was back on in the beginning of this year. However, there is no evidence that Claimant's June 2, 2015, hearing request was timely filed within 90 days of a written notice of case action for eligibility determinations made last year, or that the Department failed to act on a request for MA services.

On May 20, 2015, and May 27, 2015, Health Care Coverage Determination Notices were issued to Claimant indicating MA coverage was denied for four of her children for September 2014; however, the listed reason was because these children were already eligible for this program in another case. Accordingly, the notices confirm that these children had MA coverage. Further, the Hearing Facilitator testified that she reviewed the case record and confirmed that MA coverage has been on for Claimant and her children with no gaps in coverage dates.

The evidence does not establish that the June 2, 2015, hearing request was timely filed to contest a negative case action regarding MA or a failure to act upon a claim for assistance with reasonable promptness. Therefore, the portion of Claimant's hearing request regarding the MA program is DISMISSED for lack of jurisdiction.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, (April 1, 2015), p. 1)

Cooperation with OCS is required for the FAP program. The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1.

Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance. BEM 255 p.2. For FAP, failure to cooperate without good cause only results in disqualification of the individual who failed to cooperate. BEM 255, p. 14.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, (April 1, 2015), p. 8.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130, (October 1, 2014), pp. 1-3.

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. BAM 130, p. 6.

For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist them with the verifications but do not grant an extension. The Department is to explain to the client they will not be given an extension and their case will be denied once the VCL

due date is passed. Also, the Department is to explain their eligibility will be determined based on their compliance date if they return required verifications. The Department is to re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130, pp. 6-7.

On March 24, 2015, a Verification Checklist was issued to Claimant stating verifications were needed, in part for the FAP case, by the April 3, 2015, due date, specifically verification of wages and loss of employment.

On April 6, 2015, a Notice of Case Action was issued to Claimant, in part stating the FAP case would close effective May 1, 2015, based on a failure to cooperate with OCS as well as a failure to provide requested verification. However, the OCS non-cooperation status should only have affected Claimant's eligibility for FAP, and should not affect the children's eligibility as indicated on this notice.

The evidence established that Claimant had been in non-cooperation with OCS regarding her child [REDACTED] since [REDACTED] 2014. Accordingly, Claimant would not be an eligible group member for FAP while she remains in non-cooperation status. Claimant testified that she has given OCS all or the information she has for this child's father, which is only his first name and his biker name. Claimant stated she only knew him from the local biker club and never knew his last name. The OCS lead worker explained that they have used the information Claimant provided, but it was not sufficient to locate the potential father. Therefore, the non-cooperation status remains in place.

In the hearing request, Claimant briefly indicates there were abuse issues regarding fathers for two of her children. However, there was no evidence that Claimant has made a claim of good cause with OCS. Therefore, there was no granted or pending claim of good cause for the non-cooperation for the Department to consider when the April 6, 2015, Notice of Case Action regarding the FAP closure was issued. BEM 255 addresses the types of good cause reasons the Department can consider, including danger of physical or emotional harm to the child or client, such as abuse, how to claim good cause, and verification requirements. BEM 255, pp. 3-5. Claimant may wish to contact OCS to file a claim for good cause with OCS for the Department to consider if this is affecting her ability to cooperate.

Claimant testified she was concerned that every time she applies for something it gets denied because of the OCS non-cooperation. The Department is required to consider all eligibility factors for each program Claimant applies for or receives benefits from. Therefore, the Department must consider the OCS non-cooperation each time Claimant applies for, or is receiving benefits from, a program that requires cooperation with child support requirements as an eligibility factor.

While the OCS non-cooperation status should have only affected Claimant's eligibility for FAP, there was a second reason for the FAP case closure stated on the April 6, 2015, Notice of Case Action, specifically the failure to provide the requested verification of loss of employment. Therefore, even if non-cooperation with OCS was not an issue,

the FAP case would still have closed for all group members based on the failure comply with verification requirements.

The Department followed the above cited BAM 130 policy to request the wage and loss of employment verification by issuing the March 24, 2015, Verification Checklist to Claimant stating what verifications were needed, how to obtain them, and allowing 10 calendar days to provide them by the April 3, 2015, due date. The evidence shows that Claimant did not provide all requested verifications by the due date.

Claimant explained that she was let go from work at the [REDACTED] in February and had the last pay stub. However, Claimant could not timely get the requested verification for the loss of employment because the boss was gone. Claimant indicated she was only recently able to get the paper from another manager.

The April 6, 2015, determination to close the FAP case for all group members based on the failure to comply with verification requirements was in accordance with the BAM 130 policy. Further, the Hearing Facilitator's testimony indicated that when the verification was received, the FAP case was reinstated with only Claimant being found not eligible due to the OCS non-cooperation status. This is also in accordance with the above cited BAM 130 and BEM 255 policies. Overall, the Department's FAP eligibility determination must be upheld.

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.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255, (April 1, 2015), p. 1)

Cooperation with OCS is also required for the CDC income eligible groups. The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p. 1.

Failure to cooperate without good cause results in ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, p. 13.

Children needing CDC services must be: underage 13; age 13 to under age 18 requiring constant care due to a physical/mental/psychological condition, supervision had been ordered by the court; or age 18 and requires constant care due to a physical/mental/psychological condition or a court order and is a full time student, reasonably expected to complete high school before reaching age 19. BEM 703, (November 1, 2014) pp. 1-2.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, (April 1, 2015), p. 8.

In general, verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. BAM 130, (October 1, 2014), pp. 1-3.

For CDC only, if the client cannot provide the verification despite a reasonable effort, the Department is to extend the time limit at least once. BAM 130, p. 6.

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. BAM 130, p. 6.

Overall, the Department has not presented sufficient evidence to establish that the CDC eligibility determinations as listed on the various Notice of Case Action were in accordance with Department policy. For example, none of the Notices of Case Action issued regarding CDC indicated the OCS non-cooperation status or █████ turning age 13 were the reasons for any of the denials. It is noted that for CDC the above cited BEM 255 policy states that a failure to cooperate without good cause results in ineligibility for CDC and the case will close. Rather, the April 2015 Notice of Case Actions issued to Claimant indicate the CDC approvals and denials were based on whether or not other eligibility criteria were met, such as an allowable need for CDC services. The Department did not present sufficient evidence to review the eligibility determinations regarding the need for CDC services. Further, the May 15, 2015, a Notice of Case Action was issued to Claimant stating the CDC case closed for the four listed children effective May 31, 2015, based on a failure to provide verification to locate household. However, the comments from the Specialist on the April 15, 2015, Notice of Case Action indicate the Department had recently received a copy of Claimant's lease. This was less than two weeks before the April 28, 2015, Verification Checklist was issued to Claimant stating verifications were needed for the CDC case by the May 8, 2015, due date, specifically information about current address and phone number. Overall, the

CDC eligibility determinations are reversed as there was insufficient evidence was submitted to show that all of the CDC determinations were properly made.

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 acted in accordance with Department policy when it determined the FAP eligibility and failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined CDC eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the FAP eligibility determination and **REVERSED IN PART** with respect to the CDC eligibility determinations.

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. Re-determine Claimant's eligibility for CDC retroactive to the December 28, 2014, effective date in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **7/31/2015**

CL/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:

