

**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.: 15-011756
Issue No.: 2001, 3002
Agency Case No.: [REDACTED]
Hearing Date: September 24, 2015
County: Kent (1) Franklin

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, an in-person hearing was held on September 24, 2015, from Grand Rapids, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Assistance Payments Worker.

ISSUES

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA)?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits based on a failure to comply with verification requirements?

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 is a recipient on Medicaid (MA-G2S) and FAP benefits.
2. The Department corrected an error in the MA case record regarding a medical bill from December 31, 2010, that was being applied on an ongoing basis with no end date.
3. On June 19, 2015, a Health Care Coverage Determination Notice was issued to Claimant stating he was eligible with a monthly deductible of \$ [REDACTED] effective July 1, 2015.

4. In April 2015, the Department addressed information that Claimant's son, his girlfriend, and their children were living at the same address as Claimant because the household composition affects FAP eligibility.
5. On April 17, 2015, a Verification Checklist was issued to Claimant stating what verifications were needed by the April 27, 2015, due date.
6. On June 19, 2015, a Notice of Case Action was issued to Claimant stating the FAP case would close effective July 1, 2015, based on a failure to return the requested verifications.
7. On June 30, 2015, Claimant filed a hearing request contesting the Department's actions.

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.

Income eligibility exists for all or part of the month tested when the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545, (January 1, 2015), pp. 2-3.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BEM 545, p. 10-11.

In this case, the Department corrected an error regarding a medical bill from [REDACTED], that was being applied on an ongoing basis with no end date. (Department Exhibit A, p. 12) It was uncontested that Claimant had not been providing documentation of his medical expenses. Understandably, Claimant had not been aware

of the need to provide current medical expense documentation because his MA coverage had been active each month based on the Department's error of applying the [REDACTED], medical bill on an ongoing basis with no end date.

The Department properly corrected the error and provided advance written notice to Claimant regarding the change in his MA eligibility. The June 19, 2015, Health Care Coverage Determination Notice issued to Claimant stated he was eligible with a monthly deductible of \$ [REDACTED] effective July 1, 2015. The Health Care Coverage Determination Notice also explained how to report medical expenses to meet the monthly deductible. (Department Exhibit A, pp. 9-11) Further, it was uncontested that Claimant has since submitted documentation of medical expenses.

The evidence establishes that the Department properly re-determined Claimant's eligibility for MA.

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.

A client must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and completely and truthfully answering all questions on forms and in interviews. The client might be unable to answer a question about himself or another person whose circumstances must be known. The Department is to allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information. BAM 105 (April 1, 2015) p. 8.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the children have their own spouse or child who lives with the group. BEM 212, (July 1, 2014), p. 1.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. BAM 130 (October 1, 2014) p. 1.

The Department is to tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department is to use the best available information. If no evidence is available, the Department is to use best judgment. BAM 130, p. 3.

For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. Verifications are considered timely if received by the date they are due. 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, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department is to assist the client with the verifications but 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 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. BAM 130. pp. 6-7.

In April 2015, the Department addressed information that Claimant's ■-year-old son, his girlfriend, and their children were living at the same address as Claimant. (See Department Exhibit A, pp. 24-34) Claimant asserts that they were not in the home. (See also Department Exhibit A, pp. 2-7)

The above cited BAM 130 policy directs the Department to request verification for a reported change affecting eligibility or benefit level and when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. Under the above cited BEM 212 policy, parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Therefore, verifications were needed regarding Claimant's ■-year-old son, his girlfriend, and their children if they were living with Claimant because the alleged change in household composition would affect eligibility or benefit level. Further, if information about the household composition was unclear, inconsistent, incomplete or contradictory, even if the information came from a third party, the BAM 105 and 130 policies direct that verifications be requested. Accordingly, the Department properly requested verifications based on the inconsistent and contradictory information about the household composition, which would affect eligibility or benefit level.

On April 17, 2015, a Verification Checklist was issued to Claimant stating what verifications were needed by the April 27, 2015, due date. (Department Exhibit A, pp. 38-19) The Verification Checklist was issued to Claimant at his address, allowed 10 days for the verifications to be provided, and told Claimant what verifications were required, how to obtain them, and the due date. On June 19, 2015, a Notice of Case Action was issued to Claimant stating the FAP case would close effective July 1, 2015, based on a failure to return the requested verifications. (Department Exhibit A, pp. 41-42) The above cited BAM 130 policy directs that a case be closed when time period given has elapsed and the client has not made a reasonable effort to provide the requested verifications.

Claimant's testimony regarding the FAP verification issue cannot be found fully credible due to inconsistencies. For example, Claimant testified that he never saw the April 17, 2015, Verification Checklist until the September 24, 2015, hearing proceedings, but also that in April 2015 he returned a completed form the Department had sent him. During the

hearing proceedings, the Department checked the case record and confirmed that the correspondence issued to Claimant in April 2015 was the April 17, 2015, Verification Checklist and several Department forms that were sent with it, which could have been used to provide the requested verifications. (See also Department Exhibit A, p. 35) Therefore, if Claimant had returned a completed Department form in April 2015, it likely would have come with the April 17, 2015, Verification Checklist. Further, the print out from the electronic case regarding received documentation shows that the Department did not receive any documents from Claimant in April 2015. (Department Exhibit A, p. 40)

Claimant also noted that while the Verification Checklist was addressed to him, the requested verifications were for the other alleged household members. Claimant testified that he has nothing to do with them. Claimant questioned what he was supposed to do if he had received the Verification Checklist because he could not have provided documentation regarding them. The request for verifications for the other alleged household members was in accordance with the above cited BAM 105 and 130 polices. Further, the Verification Checklist specifies that Claimant must turn in the proofs or call by the due date or benefits may be denied or canceled, noting that the Department may be able to help get the proofs if help is requested. The Verification Checklist included a phone number for Claimant to contact the Department worker if he had any questions about this notice. (Department Exhibit A, p. 38) When someone receives a request for verifications that they do not understand, such as why verifications are needed regarding the listed individuals, or if they will have problems obtaining the requested documentation, a call should be made to the Department before the due date to address these concerns.

Overall, the Department's evidence establishes that they properly sought verifications from Claimant, who failed to respond to the Verification Checklist by the due date. Accordingly, the closure of the FAP case must be upheld.

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 Claimant's eligibility for MA and when it closed Claimant's FAP benefits based on a failure to comply with verification requirements.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Mailed: **10/2/2015**

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:

