

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-012745
Issue No.: 2002 3002
Case No.: ██████████
Hearing Date: October 14, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 October 14, 2015, from Detroit, Michigan. Participants included the above-named Claimant. ██████████ ██████████ appeared as Claimant's translator. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ specialist.

ISSUE

The first issue is whether MDHHS properly terminated Claimant's minor children's MA eligibility.

The second issue is whether MDHHS properly denied Claimant's application for Food Assistance Program) and MA benefits (for Claimant and her spouse).

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's children were ongoing MA benefit recipients.
2. On June 5, 2015, MDHHS stopped Claimant's children's MA eligibility, effective July 2015.
3. On June 15, 2015 or June 16, 2015, Claimant applied for FAP and MA benefits using an Assistance Application written in Spanish.
4. On June 24, 2015, MDHHS mailed Claimant a Verification Checklist (VCL) requesting various items including proof of Claimant's self-employment income;

MDHHS also mailed Claimant a Self-Employment Income and Expense Statement.

5. The VCL due date was July 6, 2015.
6. On July 14, 2015, Claimant requested a hearing to dispute a denial of FAP benefits and a termination of MA benefits.
7. On July 17, 2015, MDHHS denied Claimant's FAP application and mailed Claimant a Notice of Case Action informing Claimant of the denial.
8. On a subsequent date, MDHHS denied Claimant's application for MA benefits (for herself and spouse).

CONCLUSIONS OF LAW

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. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant's hearing request did not note special arrangements needed for a hearing, though it was written in Spanish. Following an adjournment, a hearing was held with a Spanish-speaking translator for Claimant.

Claimant requested a hearing, in part, to dispute a termination of her children's MA eligibility. The effective date of termination was not obvious.

Claimant testified that her children's MA was terminated effective June 2015; Claimant presented no supporting documentation. Initial hearing testimony from MDHHS was consistent with Claimant's testimony. Later MDHHS hearing testimony asserted that

Claimant's children's MA eligibility ended effective July 2015. Following the hearing, MDHHS was to fax a Case - Search Summary (Exhibits 11-12). The documents were received but did not clearly verify a stoppage of Claimant's children's MA eligibility beginning June 2015. MDHHS also faxed a Health Care Coverage Determination Notice dated June 5, 2015, however, the document was not referenced during the hearing and was not admitted as an exhibit. Based on the MDHHS' failure to verify a closure date, it is found that MDHHS terminated Claimant's children's MA coverage beginning June 2015.

MDHHS presented no valid reason for the termination of Claimant's children's MA eligibility. Accordingly, the termination of Claimant's children's MA eligibility was improper.

Claimant requested a hearing, in part, to dispute a denial of FAP and MA (for herself and spouse) benefits. MDHHS presented a Notice of Case Action (Exhibits 6-10) verifying the reason for FAP denial was failure to verify self-employment income (among other reasons). MDHHS provided credible testimony that Claimant's MA eligibility was denied for the same reason.

Technically, Claimant's hearing request was premature. Claimant requested a hearing disputing a denial of FAP and MA benefits on July 14, 2015. MDHHS did not deny Claimant's FAP application until July 17, 2015. MDHHS did not deny Claimant's MA application until a later date. Despite Claimant's premature hearing request submission, an analysis will consider the merits of Claimant's dispute.

MDHHS testified client reported [REDACTED] in self-employment income on her application. Claimant's testimony conceded she performed sporadic self-employment with income averaging [REDACTED]/month.

For all programs except Children under 19, [MDHHS is] to verify countable [self-employment] income at... application. BEM 502 (July 2015), p. 6.

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2015), p. 3. [MDDHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3.

MDHHS presented a VCL dated June 24, 2015 (Exhibits 1-2) requesting various items from Claimant, including self-employment income verification. MDHHS also presented a Self-Employment Income and Expense Statement (Exhibits 3-4) also dated June 24, 2015. Claimant testimony conceded she received the VCL requesting verification of self-employment income. Claimant's testimony further conceded she did not return any verification concerning verifying the income. Claimant testified she was waiting for the hearing so that she could clarify her income situation.

For FAP benefits, DHS 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. *Id.*, p. 5. [For MA benefits, MDDHS is] to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*, p. 7.

Claimant is a non-English speaker. Consideration was given to reversing the MDHHS denial of Claimant's application due to failures by MDHHS to accommodate language barrier. Claimant did not allege that her English speaking or reading difficulties contributed to her failure to return requested verifications. Based on the presented evidence, it is found that MDHHS properly denied Claimant's FAP and MA application due to her failure to verify self-employment income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Claimant's MA and FAP application dated June 15, 2015. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's children's MA eligibility. It is ordered that MDHHS reinstate Claimant's children's MA eligibility, effective June 2015. The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: 10/16/2015

Date Mailed: 10/16/2015

CG/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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