

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

MAHS Reg. No.: 15-016592
Issue No.: 2001; 3001
Agency Case No.: ██████████
Hearing Date: November 02, 2015
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 November 2, 2015, from Detroit, Michigan. Petitioner represented himself. The Department was represented by ██████████, Hearing Facilitator, and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) case and his wife's Medical Assistance (MA) case for failure to verify?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP benefits and his wife received MA benefits.
2. On June 4, 2015, the Department sent Petitioner a Wage Match Client Notice requesting information concerning his wife's employment with ██████████ by July 6, 2015 (Exhibit A).
3. On July 30, 2015, the Department sent Petitioner a Notice of Case Action notifying him that his FAP case was closing effective September 1, 2015 because he had failed to verify requested information (Exhibit B).

4. On July 31, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that his wife was not eligible for MA from August 1, 2015 ongoing because she was not under 21 or over 65, pregnant, the caretaker of a minor child, blind, or disabled.
5. On August 7, 2015, Petitioner submitted the Wage Match Client Notice completed by his wife to the Department.
6. On September 8, 2015, Petitioner filed a request for hearing disputing 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).

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.

Petitioner requested a hearing on September 8, 2015 concerning the closure of his FAP case and his wife's MA case. At the hearing, Petitioner indicated that he was also concerned because he had recently been notified of the closure of all his family's MA cases. The Department established that it sent Petitioner a Health Care Coverage Determination Notice on October 19, 2015 notifying him that his family's MA cases were closing effective November 1, 2015 because he had failed to timely submit a completed redetermination. Because the Department did not take this action to close the family's MA cases until October 19, 2015, after Petitioner's September 8, 2015 hearing request, the issue of the closure of the family's MA cases because of the redetermination was not properly presented for the current hearing. The hearing proceeded to address the

issues raised in the September 8, 2015 hearing request, namely the closure of Petitioner's FAP case and the closure of his wife's MA case.

The July 30, 2015 Notice of Case Action notified Petitioner that his FAP case was closing effective September 1, 2015 because he failed to verify requested information. The July 31, 2015 Health Care Coverage Determination Notice notified Petitioner that his wife's MA case was closing effective August 1, 2015 because she was not under 21 or over 65, pregnant, the caretaker of a minor child, blind, or disabled. At the hearing, the Department acknowledged that Petitioner's wife was the parent of a minor child. Therefore, the Health Care Coverage Determination Notice did not properly identify the basis for closure of the wife's MA case. BAM 220 (July 2015), p. 2. Furthermore, because Petitioner's wife's MA case closed the day after the Health Care Coverage Determination Notice was sent, the Department did not provide timely notice of the action. BAM 220, pp. 2-4. Therefore, the Department did not act in accordance with Department policy when it closed Petitioner's wife's MA case.

At the hearing, the Department testified that Petitioner's FAP case and his wife's MA case closed because Petitioner failed to timely return a Wage Match Client Notice completed by his wife's employer. A client has an obligation to report new employment. BAM 105 (July 2015), pp. 1-11. The Department routinely matches recipient employment data with the Michigan Department of Energy, Labor & Economic Growth Unemployment Insurance Agency (UIA). BAM 802 (July 2015), p. 1. This data exchange assists in the identification of potential current and past employment income. BAM 802, p. 1. If the Department's data exchange with UIA shows that a client has household income inconsistent with the Department's information in the client's file, the Department is required to reconcile the discrepancy by sending the client a Wage Match Client Notice, DHS-4638, giving the client 30 days to provide verification of wage match earnings. BAM 802 (July 2015), p. 2.

In this case, the Department presented into evidence a copy of the June 4, 2015 Wage Match Client Notice it sent Petitioner requiring Petitioner to have his wife's employer complete and return the form by July 6, 2015. The form was not returned until August 8, 2015 (Exhibit A), after the due date but before the FAP case had closed. However, the form was completed by Petitioner's wife, not the wife's employer as the form instructed.

At the hearing, Petitioner explained that his wife had worked for ██████ for the last quarter in 2014 but was then laid off when ██████ shut down its business and then sold it. Consistent with the information in his hearing request, Petitioner testified that he had a meeting with his worker on August 11, 2015 to advise her that ██████ was no longer in business and could not complete the form. Although the worker did not recall the August 11, 2015 meeting, Petitioner presented an appointment notice to support his testimony that he had met with his worker (Exhibit 1). Petitioner testified that during this meeting the worker advised him that she would send a verification of employment to ██████ to attempt to obtain the employment information herself. The worker

acknowledged that a verification form was sent to [REDACTED] and no response had been received as of the hearing date but contended that she had also advised Petitioner to reapply. Petitioner countered that he had not been advised to reapply until September 8, 2015 when he returned to the Department after his FAP case closed.

If the client who is required to submit a completed Wage Match Client Notice does not return the verification by the 30th day, the client's ongoing benefit cases will close for a minimum of 30 days after the Department takes appropriate actions in its system unless the client returns the verifications. BAM 802, p. 2. However, Department policy provides that the Department has a responsibility to explain client responsibilities in understandable terms. BAM 105, p. 13. In this case, although Petitioner did not have the Wage Match Client Notice completed by the employer, the evidence establishes that he met with his worker on August 11, 2015, and at that time, after explaining the situation and before any new application had been filed, the worker sent out a verification of employment to [REDACTED]. The worker's actions supported Petitioner's understanding that his cases would not close.

Based on the circumstances in this case, the Administrative Law Judge finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP case and his wife's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is **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. Reinstate Petitioner's FAP case effective September 1, 2015;
2. Issue supplements to Petitioner for any FAP benefits his household was eligible to receive but did not from September 1, 2015 ongoing;

3. Reinstate Petitioner's wife's MA case effective August 1, 2015;
4. Provide Petitioner's wife with MA coverage she is eligible to receive from August 1, 2015 ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/6/2015**

Date Mailed: **11/6/2015**

ACE / 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.

