

**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.: 15-020447
Issue No.: 2002; 3002
Agency Case No.: [REDACTED]
Hearing Date: December 17, 2015
County: Macomb-District 12
(Mt Clemens)

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 December 17, 2015, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator/Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Medicaid (MA) cases?

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 and MA benefits.
2. In connection with a MA redetermination, Petitioner disclosed employment at Macomb Community College (Exhibit A, pp. 6-11).
3. In processing the redetermination, on [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) concerning his ongoing MA and FAP eligibility requesting proof of employment income by [REDACTED].
4. The Department did not receive a response to the VCL by the due date.

5. On [REDACTED], the Department sent Petitioner a (1) Notice of Case Action notifying him that his FAP case was closing effective [REDACTED] because he had failed to verify earned income and (2) a Health Care Coverage Determination Notice notifying him that his MA case was closing effective [REDACTED] because his income exceeded the limit for eligibility and because he failed to verify requested information (Exhibit A, pp. 12-18).
6. On [REDACTED], Petitioner requested a hearing disputing the closure of his MA and FAP cases.

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.

The Department is required to verify income at redetermination. BEM 500 (July 2015), p. 12. Furthermore, when the Department is made aware of a client's change in income that will affect eligibility or benefit level, the Department is required to complete a FAP budget. BEM 505 (July 2015), p. 9. Therefore, when Petitioner notified the Department of his employment in his MA redetermination, the Department was required to verify this employment for purposes of his ongoing MA and FAP eligibility.

The Department testified that it sent Petitioner the [REDACTED] VCL requesting proof of employment by [REDACTED] (Exhibit A, pp. 2-5). When Petitioner did not respond to the VCL, the Department sent him the notices of case action closing his FAP

and MA cases (Exhibit A, pp. 12-18). The Department acknowledged that the sole reason for the case closures was Petitioner's failure to verify his income.

Petitioner acknowledged that he did not turn in proof of employment prior to the [REDACTED] VCL due date but testified that he did not receive the VCL. He further testified he was not aware of any particular issues with receiving mail. The Department denied receiving any returned mail addressed to Petitioner. Under these facts, Petitioner has failed to rebut the presumption of his receipt of mail sent by the Department in its ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Although the Department received some employment verification on [REDACTED] and Petitioner's employer submitted a completed Verification of Employment that it faxed directly to the Michigan Administrative Hearing System on [REDACTED] (Exhibit 1), those verifications were received after Petitioner's FAP and MA cases closed on [REDACTED]. Because they were received after the effective date of the case closures and after the negative action date, they were not timely and the cases properly remained closed. See BAM 130 (July 2015), pp. 6-7, 8; BAM 205 (July 2014), p. 1. Petitioner was advised that he could reapply for both programs.

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 closed Petitioner's FAP and MA cases.

DECISION AND ORDER

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



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

Date Signed: **12/22/2015**

Date Mailed: **12/22/2015**

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.

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:

