

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

IN THE MATTER OF:

██████████
██████████
██

Reg. No.: 15-012764
Issue No.: 2001 3001
Case No.: ██████████
Hearing Date: August 27, 2015
County: Wayne (19)

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 August 27, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly terminated Claimant's spouse's Medical Assistance (MA)

The second issue is whether MDHHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to a failure to verify assets.

FINDINGS OF FACT

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

1. On an unspecified date in the distant past, Claimant reported to MDHHS that she had a checking account.
2. On an unspecified date in the distant past, Claimant closed the checking account.
3. Claimant was a member of a household that included her spouse.
4. Claimant's spouse was an ongoing MA recipient.
5. On May 14, 2015, Claimant applied for FAP benefits.

6. Claimant's FAP application did not report a checking account.
7. On May 19, 2015, MDHHS mailed Claimant a Verification Checklist (VCL) requesting information of a checking account.
8. On May 20, 2015, MDHHS processed expedited FAP benefits for Claimant for the months of May 2015 and June 2015.
9. As of May 29, 2015, the VCL due date, Claimant reported to MDHHS that she did not have a checking account.
10. On June 9, 2015, MDHHS initiated termination of Claimant's spouse's MA eligibility, effective July 2015.
11. On June 18, 2015, MDHHS initiated termination of Claimant's FAP eligibility, effective July 2015, due to Claimant's failure to submit a checking account verification.
12. On July 10, 2015, Claimant requested a hearing to dispute the termination of her spouse's MA eligibility and her group's FAP eligibility.

CONCLUSIONS OF LAW

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 requested a hearing, in part, to dispute a termination of her spouse's MA eligibility. MDHHS did not address the issue within their Hearing Summary. During the hearing, MDHHS discovered that the termination occurred on June 9, 2015. The corresponding Health Care Coverage Determination Notice stated that the reason for closure was "Duplicate ID is not eligible. Individual is not eligible because he or she does not live with the applicant and is not considered part of the group."

Presented evidence suggested that the MDHHS database recently listed Claimant and her spouse living at separate addresses which resulted in separate MA cases. MDHHS presented testimony that an investigation discovered that Claimant and her spouse lived

together. Accepting this evidence as accurate renders a closure based on Claimant and her spouse not living together to be improper.

The evidence suggested that MDHHS intended to combine Claimant's and her spouse's separate cases into one case. Presumably, the combining never occurred due to multiple identification numbers for Claimant's spouse or some other technical obstacle. MDHHS could not provide a valid reason for terminating Claimant's spouse's MA eligibility without restarting it. It is found that MDHHS improperly terminated Claimant's spouse's MA eligibility.

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).

Claimant also requested a hearing to dispute a termination of FAP benefits. A presented Notice of Case Action (Exhibits 4-5) stated the basis for termination was a failure to verify checking account information.

Assets must be considered in determining eligibility for... FAP. BEM 400 (7/2015), p. 1. The amount in a checking account is a countable asset for purposes of FAP benefits (see *Id.*, p. 16). Policy unequivocally authorizes MDHHS to verify the amount within an existing checking account. That was not the circumstance of the present case.

Claimant testified she last had a checking account approximately 2 years before she applied for FAP benefits on May 14, 2015. MDHHS testimony indicated that Claimant reported having a bank account at some time during a past FAP eligibility period. MDHHS testimony indicated that their database maintains the information during periods of benefit closures. When Claimant applied for FAP benefits on May 14, 2015, MDHHS expected Claimant to verify the closure of her checking account.

[MDHHS is to] verify the value of countable assets at application, redetermination and when a change is reported. *Id.*, p. 57. [MDHHS is to] verify the following factors affecting exclusion of an asset at application, redetermination, and when a change is reported (see *Id.*):

- An asset is not available.
- Joint ownership prevents sale (other owner refuses to sell).
Note: this does not apply to MA policy; see Jointly Owned Assets in this item.
- There is a written agreement to repair/replace a damaged or destroyed homestead (cash exclusion for FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only; land exclusion for SSI-related MA).
- There is a written agreement to purchase another homestead.
- The asset is a bona fide loan.

MDHHS policy gives no known authorization for MDHHS to verify the non-ownership of an asset merely because the asset was previously reported and never deleted from the MDHHS database. Thus, MDHHS appears to have requested an unnecessary verification from Claimant. This conclusion is consistent with the above-cited policy which specifically authorizes MDHHS to verify *countable* assets. A closed bank account is not a countable asset.

The above-cited policy allows verifying the exclusion of an asset if the asset is unavailable. The availability of an asset is debatably applicable to the present case. "Not available" is deemed to be applicable for assets that technically belong to a client, but not accessible due to some legal or actual barrier (e.g. a bank account frozen due to court order). "Not available" is not interpreted to be applicable to assets previously owned.

A request for verification may be appropriate if MDHHS presented persuasive evidence that Claimant still had a checking account. Knowledge of a checking account from some period in Claimant's past is not persuasive evidence of continued ownership.

It is found that MDHHS was not authorized to request verification of a closed checking account. Accordingly, MDHHS improperly terminated Claimant's FAP eligibility due to a failure to verify the closure of a checking account.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Claimant's FAP eligibility and Claimant's spouse's MA eligibility. It is ordered that MDHHS perform the following actions:

- (1) reprocess Claimant's spouse's MA eligibility, effective July 2015, subject to the finding that MDHHS had no basis for closure;
- (2) reprocess Claimant's FAP eligibility, effective July 2015, subject to the finding that MDHHS had no basis to request the closure of a previously closed checking account; and
- (3) initiate a supplement of any improperly unissued benefits.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **8/28/2015**

Date Mailed: **8/28/2015**

GC/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]
[REDACTED]
[REDACTED]