

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-41600  
Issue No: 2013, 2019,  
2026, 3015

[REDACTED]

Clinton County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing received on April 13, 2011. After due notice, a three-way telephone hearing was held on August 2, 2011. The claimant personally appeared and provided testimony.

**ISSUES**

Whether the department properly determined Claimant's eligibility for Medical Assistance (MA) and MA deductible amount?

Whether the department properly denied Claimant's application for Food Assistance Program (FAP) for failure to timely provide verifications?

**FINDINGS OF FACT**

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

1. Claimant was receiving FAP and MA benefits with a deductible at all relevant time periods.
2. The department provided the Administrative Law Judge with a hearing packet that contained in excess of 140 (one hundred and forty) pages, but many of the pages were not relevant to the department's calculation of Claimant's FAP and/or MA benefits. (Hearing Packet).
3. The hearing packet indicated that the department initially found that Claimant has a group size of 5 (five), but for reasons that were unclear, Claimant's group size was reduced to 4 (four). (Hearing Packet).

4. The department indicated that Claimant had been receiving unemployment benefits, but did not provide any documentation in the hearing packet to support his contention. (Hearing Packet)
5. The hearing packet contained several Notices of Case Action that contained variable calculations for Claimant's FAP and MA deductible amounts, but there were no supportive documentation to show how the department reached these figures. (Hearing Packet).
6. Contained within the hearing packet, the department sent Claimant a Notice of Case Action that closed MA benefits for one of Claimant's group member children, but there is no explanation for such closure. (Hearing Packet).
7. The hearing packet also contained at least 3 (three) different addresses for Claimant. (Hearing Packet).
8. On April 13, 2011, Claimant submitted a hearing request to challenge the departments decision regarding her FAP and MA calculations, including the proper calculation of Claimant's MA deductible amount. (Request for Hearing).

### **CONCLUSIONS OF LAW**

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings, are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or

timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing in the instant matter appears to concern the following two programs: the Food Assistance Program (FAP) and Medical Assistance or Medicaid (MA) program. These programs are summarized below.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The MA program is also referred to as Medicaid. BEM 105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BAM 105.

For an MA recipient, a future month budget must be performed at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530. For an MA deductible client, a future month budget must be performed at redetermination

and when a change occurs that may affect deductible status. BEM 530. Countable income is income remaining after applying MA policy in BEM 500. BEM 530.

In the instant matter, the department has failed to clearly communicate to this Administrative Law Judge the precise nature of the department's actions making it impossible to make a reasoned, informed decision or to provide the Claimant with a fair hearing. From the onset, the department's Hearing Summary (DHS-3050) is woefully inadequate. Contrary to BAM 600, the DHS-3050 in the instant matter did not include a clear statement of the case action or facts which led to the action. BAM 600. Rather, the DHS-3050 and the entire hearing packet contain an unnecessarily large volume of documents (approximately 140 pages). Despite its sheer volume, a review of the hearing packet reveals that many salient documents were missing and/or the documents that were present created more questions than it provided answers. Even the department's hearing summary did not provide any insight as to the relevant department action giving rise to Claimant's hearing request. Further, the hearing summary contains nothing more than dates, names of documents and references to pages within the hearing record. During the hearing, the department workers were unable to clearly and succinctly articulate the nature of the department's actions giving rise to the request for a hearing.

This Administrative Law Judge could only make out a few hazy issues concerning Claimant's FAP and MA benefits. For instance, the department's 140-plus page hearing packet revealed that Claimant contests the department's reduction of her FAP due to excess unearned income in the form of unemployment compensation benefits (UCB). However, the department failed to attach any independent documents to show whether or not Claimant actually collected any UCB. And if Claimant did collect UCBs, how much did she earn and during what specific time period? No reasonable person could conduct a fair hearing under these circumstances.

Although the hearing packet was not devoid of records, none of the records buried within the papers effectively shed light on the precise issues in controversy nor did they explain the rationale behind the department's actions. For example, why did the department reduce Claimant's group size from 5 (five) to 4 (four)? How did the department calculate Claimant's MA deductible amounts? Why were there several DHS-1605s that showed drastically different MA deductible amounts? Why did the department close MA benefits (Other Healthy Kids) for one of Claimant's group member children? Why did the department have various mailing addresses for Claimant?

The local office manager is accountable for the decision that a hearing request **cannot** be resolved except through formal hearing. he administrative review does **not** replace the hearing process. The hearing must be held as scheduled **unless** the department deletes the negative action **or** the client or authorized hearing representative withdraws the hearing request.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information necessary to enable this ALJ to determine whether the department followed policy as required under BAM 600.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP and MA eligibility, including MA deductible amounts.

Therefore, the department's determinations are REVERSED and the department is hereby instructed to do the following:

- Redetermine Claimant's eligibility for FAP and MA benefits and conduct a comprehensive recalculation of Claimant's FAP benefits and MA benefits including the proper deductible amounts including:
  - Verification of Claimant's proper residence and mailing address,
  - Determination of Claimant's proper fiscal group size,
  - Determination and verification of all Claimant's earned and unearned income,
  - Determination of MA benefit eligibility for each group member,
  - Recalculation and proper budgeting of Claimant's past FAP benefits from January 1, 2011 to present,
  - Recalculation and proper budgeting of Claimant's past MA benefits (including deductible amounts) from January 1, 2011 to present, (reasons should be provided for any case actions and calculations),

The department shall also issue any retroactive benefits that Claimant is entitled to receive.

It is SO ORDERED.

/s/  
C. Adam Purnell  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 8/26/11

Date Mailed: 8/29/11

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CAP/ds

