

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-15452
Issue No.: 3003/2013
Case No.: [REDACTED]
Hearing Date: February 16, 2011
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was held on February 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly determined Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits for 11/2010 by budgeting income Claimant did not begin receiving until 12/2010.
2. Whether DHS properly terminated Claimant's FAP and MA benefits due to an unspecified failure to return verifications.

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 was an ongoing MA and FAP benefit recipient.
2. On an unspecified date, DHS discovered that Claimant began receiving \$2145/month in Retirement, Survivors, Disability Insurance (RSDI) beginning 12/2010 (see Exhibits 1 and 2).
3. On an unspecified date in 10/2010, DHS affected Claimant's 11/2010 FAP and MA benefits by budgeting Claimant's \$2145/month in RSDI income.

4. As a result of the DHS determination in 10/2010, Claimant's FAP benefits were reduced from \$526/month to \$10/month in FAP benefits.
5. As a result of the DHS determination in 10/2010, Claimant's MA benefits were reduced from ongoing Medicaid to Medicaid subject to a monthly deductible.
6. On a subsequent date, DHS terminated Claimant's FAP and MA benefits due to some unspecified failure by Claimant to verify information.
7. On 1/13/11, Claimant requested a hearing disputing the DHS reduction of FAP benefits only for 11/2010; Claimant also requested a hearing disputing the termination of MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

Claimant's first contention was that DHS improperly determined Claimant's FAP benefit eligibility for 11/2010 by including \$2145 in RSDI in Claimant's FAP budget when Claimant states she did not begin receiving the income until 12/2010. The first issue to determine is when Claimant began receiving the income.

Claimant submitted a letter (Exhibit 1) from Social Security Administration dated 10/5/10 which tended to verify Claimant's contention. This letter read that Claimant "will receive \$2145.00 for November 2010 around December 3, 2010." An SOLQ (a DHS report based on SSA information), was also submitted as evidence (see Exhibit 2). The SOLQ indicated that the "unearned income start date" of Claimant's \$2145 payment was 12/1/10. No evidence was submitted indicating that Claimant received \$2145 prior to 12/2010. It is found that Claimant began receiving \$2145/month in RSDI beginning 12/2010.

For starting income, DHS is to use the best available information to prospect income for the benefit month. BEM 505 at 6. DHS is to complete a budget when either DHS is made aware of or the client reports a change in income that will affect eligibility or benefit level. *Id.*

In the present case, Claimant established that DHS budgeted income Claimant had not yet received to determine Claimant's FAP benefits for 11/2010. There is no basis within DHS regulations justifying the 11/2010 budgeting of RSDI income. It is found that DHS erred in determining Claimant's FAP benefits by including RSDI income that Claimant had not yet received.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Claimant had two disputes concerning her ongoing MA benefits. First, that DHS erred in determining Claimant's 11/2010 MA benefit eligibility due to the inclusion of RSDI income she had not yet received. The above finding that DHS erred in budgeting RSDI income for 11/2010 applies as equally to Claimant's eligibility for MA benefits as it did for Claimant's FAP eligibility. It is found that DHS erred in determining Claimant's 11/2010 MA benefit eligibility.

For all programs, DHS must request verifications when required by policy. BAM 130 at 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at 1. Verification is usually required at application or redetermination. *Id.*

For MA benefits, DHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide requested verification. BAM 130 at 4. If the client cannot provide the verification despite a reasonable effort, DHS is to extend the time limit up to three times. *Id.* 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.* at 4

A second dispute concerning Claimant's MA benefits is that DHS terminated Claimant's MA benefits due to an alleged failure by Claimant to return verifications. DHS was unable to establish whether a written request was made or what documents were requested and not returned. The undersigned cannot uphold a termination of MA benefits without any evidence justifying the termination. It is found that DHS erred in terminating Claimant's MA benefits.

Claimant stated that she applied for MA benefits in 10/2010. During the hearing, DHS did not dispute this statement though DHS had no evidence to confirm or refute Claimant's stated application date. The undersigned will use 10/2010 as the date from which Claimant is entitled to a determination of MA benefits as DHS failed to object to this date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for FAP benefits for 11/2010. It is further found that DHS improperly determined Claimant's eligibility for MA benefits since 10/2010. It is ordered that DHS recalculate Claimant's FAP eligibility for 11/2010 and that DHS remove any RSDI income not received by Claimant (or her children) and that Claimant is supplemented for any FAP benefits not received. It is further found that DHS erred in terminating or denying Claimant's eligibility for MA benefits effective 10/2010. It is ordered that DHS redetermine Claimant's eligibility for MA effective 10/2010. If DHS requires further documents concerning Claimant's eligibility, DHS shall request them in accordance with DHS regulations. The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/28/2011

Date Mailed: 2/28/2011

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.

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