

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201254551
Issue No.: 2018; 2026; 3002
Case No.: [REDACTED]
Hearing Date: October 10, 2012
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 10, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's sister. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) coverage under the Ad-Care program?

Did the Department properly provide Claimant with MA coverage with a monthly \$720 deductible?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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 recipient of MA benefits, receiving coverage under the Ad-Care program.

2. On April 11, 2012, the Department sent Claimant a Notice of Case Action advising her that, effective May 1, 2012, her coverage under the Ad-Care program would close and she would receive MA coverage with a monthly \$720 deductible.
3. The April 11, 2012, Notice of Case Action also advised Claimant that, effective May 1, 2012, her monthly FAP benefits would decrease to \$16.
4. On April 20, 2012, Claimant filed a hearing request disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, in connection with Claimant's April 2012 redetermination, the Department recalculated Claimant's MA and FAP budgets. Because of an increase in Claimant's income, the Department closed Claimant's MA coverage under the Ad-Care program, determined that Claimant was eligible for MA coverage with a \$720 monthly deductible, and reduced Claimant's monthly FAP benefits.

In determining a client's net income for MA and FAP purposes, the Department considers the gross monthly unearned income received by the client. BEM 503 (October 1, 2011), p 1; see also BEM 530 (August 1, 2008). In this case, the Department testified that in calculating Claimant's gross monthly unearned income of \$1215, which was used in connection with determining Claimant's MA coverage and her monthly FAP benefits, it considered (i) Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$736 and (ii) Claimant's gross monthly veterans benefits of \$479. At the hearing, Claimant confirmed that she received gross monthly RSDI benefits of \$736 and gross monthly veterans benefits of \$479. However, she credibly testified that the Social Security Administration (SSA) was deducting a prior overpayment from her RSDI benefits so that she actually received only \$558 monthly. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (April 1, 2012), p 4. Unless an exception under policy applies, these amounts are **excluded** as income. BEM 500, p 5 (emphasis added).

It is unclear from the evidence presented at the hearing when the SSA began deducting amounts from Claimant's RSDI benefits. While the Department presented a March 15, 2012, letter from SSA showing that the only deduction from Claimant's RSDI benefits was \$99.90 for medical insurance premiums, the Department did not present a SOLQ (Single Online Query) report, the Department's data exchange with the SSA, showing the status of Claimant's RSDI benefits. Because the amount of any funds the SSA deducted from Claimant's RSDI benefits due to a prior overissuance should not be included in the calculation of Claimant's gross income, the Department did not act in accordance with Department policy when it closed Claimant's Ad-Care case for exceeding the gross income test, applied MA coverage with a \$720 monthly deductible, and reduced Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department


did act properly when .

did not act properly when it closed Claimant's Ad-Care case, provided MA coverage with a \$720 monthly deductible, and reduced Claimant's FAP benefits.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's Ad-Care eligibility, monthly deductible amount (if Claimant is ineligible for Ad-Care coverage), and monthly FAP benefits as of May 1, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision to exclude from Claimant's gross unearned income any RSDI benefits withheld by the SSA for a prior overissuance;
2. Provide Claimant with MA coverage she is eligible to receive from May 1, 2012, ongoing;
3. Issue supplements for FAP benefits Claimant is eligible to receive but did not from May 1, 2012, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/23/2012

Date Mailed: 10/23/2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,

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- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

