

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

IN THE MATTER OF:



Reg. No.: 201264730
Issue No.: 2017; 3008
Case No.: [REDACTED]
Hearing Date: August 15, 2012
County: Wayne (76)

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 August 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly terminate Claimant's Medical Savings Program (MSP) benefits under the Medical Assistance (MA) program?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective May 1, 2012?

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 MSP and FAP benefits.
2. On February 1, 2012, the Department stopped providing Claimant with Qualified Medical Beneficiaries (QMB) coverage under MSP.
3. In processing Claimant's FAP redetermination, the Department ran an Offender Tracking Information System (OTIS) check that showed that Claimant was identified as a probation absconder as of April 9, 2003.

4. The Department closed Claimant's FAP case effective April 30, 2012, because Claimant had failed to verify that the probation violation had been resolved.
5. On July 10, 2012, Claimant filed a request for hearing concerning her FAP and MA cases.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services, Bridges Administrative Manual (BAM) (2012), the Bridges Eligibility Manual (BEM) (2011), and the Reference Tables Manual (RFT) (2012).

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 2000 AACS, 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, Claimant requested a hearing concerning the closure of her FAP case effective April 30, 2012, and the closure of her Medicare Savings Program benefits effective February 1, 2012. Claimant reapplied for FAP benefits on May 31, 2012 and although her application was initially denied, her application was reregistered and approved on July 10, 2012. Claimant also reapplied for MSP benefits and her case was approved, effective as of August 1, 2012.

Medicare Savings Program (MSP) Benefits

Although the Department presented evidence that Claimant's SSI-related MA had closed effective December 31, 2011 and contended that Claimant had failed to timely request a hearing with respect to that Department action, in her hearing request, Claimant expressed concerns because her worker "cut me off my medical in February 2012 so \$99.00 is being taken out of my [SSI]." Claimant's hearing request was sufficient to put the Department on notice that she was requesting a hearing regarding the Department's action to no longer pay her Medicare Part B premium, not concerning her SSI-related MA.

At the hearing, Claimant presented a Notice of Case Action showing that the Department had approved her application for QMB benefits beginning December 1, 2012. Claimant contended that she did not receive any Notice of Case Action informing her that her QMB benefits were terminating, and only became aware of the termination of those benefits when she went to her bank in May or June 2012 and was informed that \$99 was being deducted from her RSDI income. Thereafter, she contacted the Social Security Administration (SSA) and was advised that the deduction was due to the Department no longer paying her Part B premium. The report from the State On-Line Query (SOLQ), the Department's data exchange with the SSA, concerning Claimant's federal benefits was consistent with Claimant's testimony, showing that Claimant began receiving Part B Medicare coverage on December 1, 2011, and the State paid her Part B premium from December 1, 2011, to February 1, 2012. At the hearing, the Department presented no evidence concerning the termination of Claimant's MSP benefits. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy in terminating Claimant's MSP benefits.

Closure of FAP Case

A person who is violating a condition of probation or parole imposed under a state law is disqualified from FAP eligibility, and this disqualification continues as long as the violation occurs. BEM 203 (October 1, 2011), p 2.

In this case, the Department closed Claimant's FAP case effective April 30, 2012, when it became aware when processing Claimant's FAP redetermination that Claimant had been in violation of her probation since April 9, 2003. The Department obtained this information from the online OTIS website, which provides information about offenders previously or currently under the jurisdiction or supervision of the Michigan Department

of Corrections (MDOC). The OTIS website cautions users regarding the accuracy of the information on the site. Because Claimant denied that she was in violation of her probation, the Department sent her a Verification Checklist (VCL) on May 11, 2012, requiring that she meet with Macomb County Probation for her absconder status to be removed or to show that she is meeting probation requirements by May 21, 2012.

Although Claimant contended that she provided documentation to the Department and the Department denied receiving any timely response from Claimant, the documentation Claimant contended established that she had no probation violation was subsequently presented to the Department in connection with an online FAP application she filed on May 31, 2012, and presented as an exhibit at the hearing. A review of these documents does not establish that Claimant's probation violation issue was resolved prior to the May 21, 2012, due date of the VCL. To the contrary, the Department's worker documented a phone conversation she had on [REDACTED] with a clerk at the probation office where the clerk advised her that Claimant continued to have a warrant for her arrest outstanding with respect to unpaid probation restitution dating back to 2004. Claimant testified that she subsequently reappeared at the court for a third time, that the court informed her that she had no outstanding probation issues, and assisted her in resolving the matter. On July 16, 2012, the Department ran the OTIS check on Claimant and it showed that Claimant was discharged with a discharge date of [REDACTED]. Based on the foregoing evidence, the Department reinstated Claimant's FAP case as of May 31, 2012, the date of her online application, even though the Department had previously issued a Notice of Case Action on June 5, 2012, denying the application. The Department must reregister a FAP application if the client complies with a request for verifications within 60 days of the application date. BAM 512 (May 1, 2012), p 5.

Because none of the foregoing evidence showed that Claimant had resolved her probation violation issues prior to the April 30, 2012, closure of her FAP case or by the May 21 VCL due date, the Department did not act contrary to Department policy when it closed Claimant's FAP case on April 30, 2012, based on the probation violation. However, it properly reregistered Claimant's May 31, 2012, FAP application, once it received verification on July 16, 2012, that the probation issue had been resolved.

At the hearing, the Department expressed some concerns that Claimant's FAP group improperly included her son. Claimant contended that she and her son bought and prepared food together and he was properly included in her FAP group. Because the Department has not acted to remove Claimant's son from her FAP group, this issue is not properly presented at this hearing.

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 it closed her FAP case effective April 30, 2012.

did not act properly when it failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MSP case.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the April 30, 2012, closure of Claimant's FAP case AND REVERSED IN PART with respect to the February 1, 2012, closure of Claimant's MSP case.

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

1. Reinstate Claimant's MSP case of February 1, 2012;
2. Provide Claimant with any back MSP benefits she may be due and owing from February 1, 2012, ongoing; and
3. 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: August 23, 2012

Date Mailed: August 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,
 - 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.

201264730/ACE

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:

