

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

IN THE MATTER OF:



Reg. No.: 201267443
Issue No.: 2018; 3003
Case No.: [REDACTED]
Hearing Date: August 29, 2012
County: Wayne (57)

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 29, 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, and [REDACTED], Eligibility Specialist.

ISSUE

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

Did the Department properly process and deny Claimant's Medical Assistance (MA) application?

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 FAP.
2. On May 2, 2012 Claimant applied for MA and SDA.
3. On July 17, 2012 the Department denied Claimant's MA application and reduced his monthly FAP benefits to \$16.

4. On July 25, 2012 Claimant requested a hearing, disputing the Department's decisions on his Medicaid and FAP cases.

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 his request for hearing, Claimant stated that he wished to address his Medicaid and FAP case actions dated July 17, 2012. At the hearing, Claimant also brought up the Department's denial of his State Disability Assistance (SDA) application. However, because Claimant did not raise this issue in his hearing request and because the Department did not have the opportunity to prepare a response to this issue, the Department's denial of Claimant's SDA application is not considered in this hearing decision.

FAP Benefits

Claimant was concerned because, in connection with his MA application, the Department recalculated his FAP budget and reduced his monthly FAP benefits from \$200 to \$16, effective August 1, 2012. The Department did not provide a copy of Claimant's FAP budget for August 1, 2012. Accordingly, the budget information shown on the July 17, 2012 Notice of Case Action reducing Claimant's FAP benefits was reviewed at the hearing.

The Notice of Case Action showed that the Department considered Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1619 in calculating his total unearned income. Claimant confirmed the amount of his RSDI benefits, but contended that his RSDI income should be excluded from consideration in his FAP budget because he receives this income because of a service-related disability. However, the Department is required to consider the gross RSDI benefit amount as unearned income. BAM 503 (October 1, 2011), p 21. Claimant also testified that he received veterans' benefits in connection with his service-related disability. While the Department counts the gross amount of service-connected disability veterans' compensation payments as unearned income, there are exceptions to that policy. BEM 503, p 27. In this case, the Department did not consider Claimant's veterans' benefits in the calculation of his unearned income. It is assumed that the Department considered the nature of those benefits when it excluded them from Claimant's FAP calculation.

The budget information on the Notice of Case Action also showed that Claimant's monthly housing expenses were \$112.06 and he had no child support expenses. The Department testified that it received information concerning Claimant's monthly mortgage expenses and updated Claimant's August 1, 2012 FAP budget to include \$375 for Claimant's monthly housing expenses. While Claimant testified that he paid considerably more each month towards his monthly mortgage because he had been assessed fees, late fees and/or penalties incurred for shelter expenses are *not* an allowable housing expense in a FAP budget. BEM 554 (January 1, 2011), p 10. Thus, the Department acted in accordance with Department policy when it used the \$375 figure indicated as a "regular payment" on Claimant's monthly mortgage statement as Claimant's housing expense.

The Department did not consider Claimant's monthly child support expenses in his August 1, 2012, FAP budget. Claimant credibly testified that he had supplied the child support information to the Department in connection with his October 2011 FAP application. While the Department testified that it did not receive verification of child

support payments made by Claimant until July 27, 2012, the Department acknowledged that Claimant's FAP file had been misplaced so it was unable to review the documentation contained in the file to confirm whether Claimant had previously provided the child support verification. In light of these facts, the Department did not act in accordance with Department policy when it failed to consider Claimant's child support expenses in his August 1, 2012, ongoing FAP budget. (See BEM 554, pp 4-5).

At the hearing, Claimant also argued that he had medical expenses not considered in his FAP budget. However, because he did not submit those expenses to the Department until July 27, 2012, the Department would be required to budget those expenses for future FAP budgets, in accordance with Department policy. BEM 554 (January 1, 2011), pp 6-7.

Claimant also contended that his monthly car payment should be considered in his FAP budget because he needed his car in light of his disability. Medical expenses include actual costs of transportation and lodging necessary to secure medical treatment or services. BEM 554, p 8. If actual costs for transportation cannot be determined, the Department allows a cents-per-mile amount at the standard mileage rate for a privately owned vehicle. BEM 554, p 8. Therefore, Claimant's car payments are not allowable medical expenses for consideration in Claimant's FAP budget.

MA Application

Claimant applied for MA on May 2, 2012. In its July 17, 2012 Notice of Case Action, the Department denied Claimant's application on the basis that Claimant failed to verify, or allow the Department to verify, necessary information. At the hearing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in denying Claimant's MA application.

First, the Department acknowledged that Claimant's MA application was not denied for his failure to provide requested information. Therefore, the Notice of Case Action does not reference the grounds relied upon by the Department in denying the application.

Second, at the hearing, the Department testified that Claimant's MA application was denied because he has ongoing Interim MA. Claimant testified that he had received notice that his hearing concerning his ongoing Interim-MA coverage had been dismissed. Thus, it was not clearly established that Claimant had ongoing Interim-MA coverage. Further, a client is entitled to the MA coverage most beneficial to him. BEM 105 (October 1, 2010), p 2. Thus, the Department would be required to assess Claimant's eligibility under other MA programs and cover him under the program that results in eligibility, or the least amount of excess income. BEM 105, p 2. It is not clear from the facts in this case that the Department made this determination.

Finally, Claimant testified that he was covered by Medicare effective August 1, 2012. Although Claimant was unable to verbalize what MA benefits he was seeking from the Department when he applied for MA in May 2012, in light of his pending Medicare coverage, Claimant's eligibility under the Medicare Savings Program, which pays

Medicare premiums for eligible clients, should also have been considered. BEM 105, p 2; See BEM 165 (October 1, 2010).

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 calculated Claimant's FAP benefits for August 1, 2012, ongoing, and when it denied Claimant's MA application.

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 FAP budget for August 1, 2012, ongoing, in accordance with Department policy and consistent with this hearing decision;
2. Issue supplements to Claimant for any FAP benefits Claimant was eligible to receive but did not from August 1, 2012, ongoing;
3. Reregister Claimant's May 2, 2012, MA application;
4. Begin reprocessing the application, in accordance with Department policy and consistent with this hearing decision;
5. Provide MA coverage to Claimant that he is eligible to receive based on his May 2, 2012 MA application date; and
6. 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: September 5, 2012

Date Mailed: September 5, 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.

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:

