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

#### IN THE MATTER OF:



Reg. No.: 2012-76455 Issue Nos.: 2014, 3008 Case No.:

Hearing Date: November 19, 2012 County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

#### **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 November 19, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Participants. Participants on behalf of the Department of Human Services (Department) included.

### ISSUE

Due to a failure to comply with the verification requirements, did the Department properly close Claimant's FAP (Food Assistance Program) case and reduce Claimant's benefits for Medical Assistance (MA).

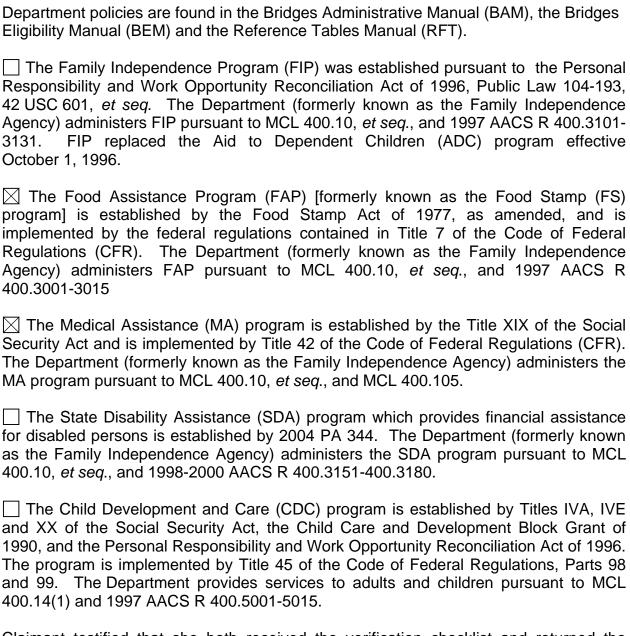
### FINDINGS OF FACT

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

- 1. Claimant ☐ applied for ☒ was receiving: ☐FIP ☒FAP ☒MA ☐SDA ☐CDC.
- 2. Claimant was required to submit requested redetermination papers by August 9, 2012.
- 3. On August 28, 2012, the Department closed Claimant's FAP case and reduced her MA benefits .
- On August 28, 2012, the Department sent notice of the closure of Claimant's FAP case and reduction of her MA benefits.

5. On September 26, 2012, Claimant filed a hearing request, protesting the closure of her FAP case and reduction of her MA benefits.

# **CONCLUSIONS OF LAW**



Claimant testified that she both received the verification checklist and returned the packet to the Department.

The Department testified that no packet was received.

The Administrative Law Judge generally found Claimant's testimony credible as Department Exhibit 3 specifically shows verifications, including the loss of employment

verification in question, being returned on August 7, 2012, two days before the due date. While the Department testified that they could not locate the verifications in question, the fact that Claimant testified to her return and the fact that the items were marked in the system as returned lends credibility to Claimant's statements. Therefore, the undersigned finds that Claimant returned the verifications in question and the FAP case was closed in error.

With regard to the MA eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105.

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. Income eligibility exists for the calendar month tested when:

- There is no excess income, or
- Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines).

BEM 545.

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544.

An eligible MA group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, an MA group may become eligible for assistance under the deductible program. The deductible program is a process which allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

The MA budgets included Claimant's RSDI income. Per policy, this income must be counted as income to the group. The Administrative Law Judge has reviewed the budgets and found no errors. Claimant herself was unable to point out specifically what parts of the budget she felt were in error. Claimant argued that the budget was unfair, but did not dispute policy. Therefore, Claimant only becomes eligible for Group 2 MA

when the excess income, calculated to be \$319, is spent. This amount was calculated after considering Claimant's allowed protected needs level. The undersigned cannot point to any errors in the budgets, and must conclude that the Department's calculations were correct.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly determined Claimant's MA deductible and improperly closed her FAP case.

# **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 with regard to reducing Claimant's MA benefits and did not act properly with regard to closing her FAP case.

Accordingly, the Department's decision is PARTIALLY REVERSED for the reasons stated on the record.

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

1. Reopen Claimant's FAP case retroactive to the date of negative action; the Department may reprocess the redetermination in question, if necessary.

Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 3, 2013

Date Mailed: January 3, 2013

**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:

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- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration <u>MAY</u> 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

# RJC/pf

