

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

IN THE MATTER OF:



Reg. No.: 201229189
Issue No.: 2017, 2014, 3002
Case No.: [REDACTED]
Hearing Date: March 2, 2012
County: Wayne DHS (35)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 2, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist and Mildred Wheeler, Manager.

ISSUE

The issue is whether DHS properly terminated Food Assistance Program (FAP) benefits, terminated Medicare Savings Program (MSP) benefits and reduced Medical Assistance (MA) benefits based on the inclusion of income from Claimant's spouse.

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 FAP and MSP benefit recipient.
2. Claimant received Medicaid as an MA benefit recipient.
3. Claimant was part of a household that included her spouse and minor child.
4. On an unspecified date, DHS began inclusion of Claimant's spouse's income in the determination of Claimant's eligibility for FAP, MSP and MA.
5. Claimant's spouse received gross employment pays averaging \$675.80/week.

6. On 1/9/12, DHS terminated Claimant's eligibility for FAP and MSP benefits, effective 2/2012 due to excess income.
7. On 1/9/12, DHS reduced Claimant's MA benefit eligibility, effective 2/2012, from ongoing Medicaid to Medicaid subject to a \$2094/month deductible.
8. On 1/23/12, Claimant requested a hearing to dispute the DHS actions which affected her eligibility for FAP, MSP and MA.

CONCLUSIONS OF LAW

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

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. MSP is part of the MA benefit program.

Claimant objected to FAP, MA and MSP determinations which dramatically affected her benefit eligibility. It was not disputed that the changes were the result of Claimant's spouse's employment income in the benefit determinations.

Spouses who are legally married and live together must be in the same FAP benefit group. BEM 212 at 1. Parents and their children under 22 years of age who live together must be in the same FAP benefit group regardless of whether the child(ren) have their own spouse or child who lives with the group. *Id.*

Claimant testified that she and her spouse were in the process of getting divorced. Claimant presented DHS with a divorce judgment verifying a divorce date of 2/28/12. For purposes of a FAP determination dated 1/9/12, Claimant was a married woman whose husband was in her household. Thus, Claimant's husband and income were properly factored by DHS in the FAP benefit determination. It is irrelevant that Claimant was close in time to being officially divorced. It should be noted that the divorce has no affect on the FAP benefit determination because parents are included in the same FAP benefit group as their children when living in the same household. Thus, the now ex-

spouse is still a mandatory FAP benefit member by virtue of being a biological parent to Claimant's child in the household with Claimant.

There was no objection to any other aspects of the FAP benefit budget. It is found that DHS properly terminated Claimant's ongoing FAP benefit eligibility.

Claimant also objected to a change in her ongoing eligibility for MA benefits. Again the objection was based on the inclusion of Claimant's spouse's income in determining Claimant's eligibility.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.*

As a caretaker receiving RSDI for being disabled, Claimant is potentially eligible for FIP-related and SSI-related MA eligibility. For SSI-related MA benefit eligibility, the MA benefit group includes the adult and spouse. BEM 211 at 5. The same group exists for adults eligible for FIP-related-MA. *Id.* at 5. Both policies are presumed to mean a spouse within the same household as client. As of 1/9/12, the date of the DHS decision in dispute, Claimant was a married woman whose spouse was in the household. Thus, DHS properly included Claimant's spouse and the spouse's income in the MA benefit determination.

There was no objection to any other aspects of the MA or MSP budgets. It is found that DHS properly terminated Claimant's ongoing MSP benefit eligibility and properly reduced Claimant's MA benefit eligibility.

As noted during the hearing, Claimant's finalized divorce on 2/28/12 might affect her future MA and MSP benefit eligibility. As this issue was not the basis of the hearing request, there is no need to give the issue further discussion.

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 determining Claimant's eligibility for FAP, MA and MSP effective 2/2012

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



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

Date Signed: March 7, 2012

Date Mailed: March 7, 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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

