

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201241128
Issue No.: 2015, 3002
Case No.: [REDACTED]
Hearing Date: April 19, 2012
County: Wayne DHS (57)

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 April 19, 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], Manager, and [REDACTED] Specialist.

ISSUES

The first issue is whether DHS properly failed to evaluate Claimant's Medical Assistance (MA) benefits effective 4/2012 based on Claimant's status as a pregnant woman.

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) benefit eligibility effective 4/2012.

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 MA benefit recipient.
2. On an unspecified date, Claimant reported to DHS that she was pregnant.
3. On 3/7/12, DHS determined Claimant's MA benefit eligibility effective 4/2012 but failed to factor Claimant's pregnancy in the determination.
4. Claimant was an ongoing FAP benefit recipient.

5. Claimant's spouse made ongoing child support payments for unspecified amounts.
6. Claimant verified her spouse's child support payments to DHS.
7. On 3/7/12, DHS determined Claimant's FAP benefit eligibility effective 4/2012 without factoring Claimant's spouse's child support payments.
8. On 3/19/12, Claimant requested a hearing to dispute the FAP and MA benefit determinations effective 4/2012.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

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.*

Claimant was an ongoing Medicaid benefit recipient for being a caretaker to minor children. Effective 4/2012, DHS reduced Claimant's MA benefit eligibility. It was not disputed that as of 4/2012, Claimant was a pregnant woman. It was also not disputed that the MA benefit decision for 4/2012 failed to factor Claimant's status as a pregnant woman. The failure by DHS to recognize Claimant as pregnant is relevant because eligibility limits vary depending on the basis for the MA benefits. For example, a person may have excess income for Medicaid coverage based on caretaker income limits, but a pregnant woman with the same income might be eligible for Medicaid. It is found that DHS erred in failing to evaluate Claimant's eligibility for MA benefits based on pregnancy.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS

administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Claimant also questioned a FAP benefit reduction effective 4/2012. Claimant's primary contention was that DHS improperly prospected her spouse's income by including overtime payments.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 at 4. DHS may discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*

Overtime pay, by itself, is not necessarily unusual income. It is plausible that Claimant's spouse regularly works overtime and regularly receives overtime payments. In the present case, Claimant submitted income verifications to DHS which included overtime payments to her spouse. Claimant provided no evidence to indicate that the pays which included overtime income were unusual. Based on the presented evidence, it is found that DHS did not err in budgeting Claimant's spouse's income for purposes of FAP benefit eligibility. Claimant was advised to submit a new set of pay stubs to DHS if her spouse has stopped receiving overtime payments.

It was not disputed that Claimant's spouse paid child support regularly. It was also not disputed that the 4/2012 DHS determination failed to factor any child support payments by Claimant's spouse. DHS conceded the error. It is found that DHS erred by failing to budget Claimant's spouse's child support payments.

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 not act properly when determining Claimant's FAP and MA benefit eligibility effective 4/2012

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED 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. redetermine Claimant's MA benefit eligibility effective 4/2012 based on Claimant's status as a pregnant woman;
2. redetermine Claimant's FAP benefit eligibility effective 4/2012 based on Claimant's spouse's child support payments; and

3. supplement Claimant for any benefits not received as a result of the DHS errors.



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

Date Signed: April 23, 2012

Date Mailed: April 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.

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

CG/hw

cc:

