

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201258322
Issue No: 3002, 2013
Case No: [REDACTED]
Hearing Date: July 12, 2012
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 12, 2012. The claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly determined the amount of the claimant's Food Assistance Program (FAP) benefits?
2. Whether the department properly closed the claimant's Medical Assistance (MA) case for full Medicaid and instituted a spend-down based on excess income?

FINDINGS OF FACT

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

1. The claimant has been a recipient of FAP benefits at all times pertinent to this hearing.
2. On March 13, 2012, the claimant was sent a redetermination form (DHS 1010) which was returned to the department by the claimant. (Department Exhibits 5-8).
3. Upon investigation, the department determined that the claimant and her husband were erroneously set up with individual MA cases. (Department Hearing Summary).
4. The claimant's case was combined with her husband's which resulted in a decrease in FAP benefits and a MA spend-down amount of [REDACTED]

5. The claimant was sent a notice of case action on April 18, 2012 stating that her FAP benefits would be decreased as of May 1, 2012. (Department Exhibits 11-12).
6. The claimant was not sent a notice of case action regarding her MA benefits.
7. The claimant filed a request for hearing on June 4, 2012, protesting the reduction of her FAP benefits and the imposition of her MA spend-down.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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). The Department of Human Services (DHS or department) 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 Bridges Reference Manual (BRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to

any deductions. BEM 500. Policy also states that married individuals who live together must be in the same group for purposes of determining the FAP budget and benefit amount. BEM 212.

At the hearing, the claimant's FAP budget was examined with the claimant and the department. After examination, the claimant testified that she did not think that the department had used any inaccurate figures or that any calculations were done incorrectly. After adding the appropriate income and deductions, the department arrived at a net income amount for FAP purposes of [REDACTED]. RFT 260 states that a FAP group of 2 with a net income of [REDACTED] is entitled to [REDACTED] per month in FAP benefits. The Administrative Law Judge determines that the department properly calculated the claimant's FAP benefit allotment.

However, at the hearing, the department was not able to provide a budget for the claimant's MA benefits. Therefore, the Administrative Law Judge determines that the department has not met their burden of going forward in relation to the claimant's MA benefits. The department has not provided the necessary competent and material evidence to show that the claimant's MA case was closed properly in accordance with policy. Additionally, BAM 220 states that notice must be provided when the department takes action that will negatively affect a claimant's benefits. The department representative testified that the claimant did not receive any notice pertaining to her MA benefits. This action is not an action defined in policy as not requiring notice; therefore the claimant additionally did not receive proper notice of the closure of her MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the amount of the claimant's FAP benefits.

Accordingly, the department's actions pertaining to the claimant's FAP benefits are **AFFIRMED**. It is SO ORDERED.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's MA case.

Accordingly, the department's actions pertaining to the claimant's MA case are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's MA eligibility as of the date of negative action (February 1, 2012). The department shall send the claimant proper notice of the case action to be taken upon redetermination in accordance with policy.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 18, 2012

Date Mailed: July 18, 2012

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

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