

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201273787
Issue No.: 2026; 3002
Case No.: [REDACTED]
Hearing Date: October 3, 2012
County: Wayne (19)

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 October 3, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case based on the reason that Claimant had failed to meet her deductible for three months?

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

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 benefits and MA coverage with \$700 monthly deductible.
2. On August 9, 2012, the Department sent Claimant a Notice of Case Action advising her that, effective September 1, 2012, (i) her MA case was closing because she had not met her deductible for at least one of the last three months and (ii) her FAP benefits were approved for \$21 per month.

3. On August 19, 2012, Claimant filed a request for hearing, disputing the Department's calculation of benefits.

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.

MA Case

To meet a deductible, an MA client must report and verify allowable medical expenses that equal or exceed the deductible amount for the calendar month being tested by the last day of the third month following the month in which client wants MA coverage. BEM 545 (July 1, 2011), p 9. If a group has not met its deductible in at least one of the three calendar months before that month **and** none of the members are QMB, SLM or ALM eligible, the Department will close the MA case. BEM 545, p 9.

In this case, Claimant received MA coverage with a \$700 monthly deductible. On August 9, 2012, the Department sent Claimant a Notice of Case Action notifying her that it was closing her MA case effective September 1, 2012, because the deductible had not been met in at least one of the last three months. At the hearing, Claimant contended that she had ongoing medical expenses and credibly testified that, even before her MA case closed on September 1, 2012, she was unable to get the Department to verify her MA coverage beginning with an April 2012 hospitalization. Claimant also credibly testified that billings exceeding \$700 had been submitted to the Department on June 22, 2012, for hospital services provided to that date and that that bill had not been paid. The Department did not have any evidence to support or deny Claimant's contention. Because the Department failed to counter Claimant's credible evidence that she, or her provider, had submitted medical bills exceeding \$700 within the three months prior to the September 1, 2012 closing of her MA case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's MA case.

FAP Benefits

Claimant also expressed concerns regarding the calculation of her FAP benefits. The Department provided a copy of the FAP budget showing the calculation of Claimant's monthly FAP benefits for September 2012 ongoing. Claimant verified that she was a two-member FAP group and that her housing expenses were \$600 per month. The budget showed monthly unearned income of \$1682. The Department testified that this income consisted of biweekly unemployment benefits of \$724 and Claimant's child support income but could not identify what portion of the \$1682 was allocated to unemployment benefits and what portion was allocated to child support. Because the Department was unable to specify the amount of unearned income it allocated to Claimant's unemployment benefits, the Department failed to satisfy its burden of showing that it calculated Claimant's unemployment income in accordance with Department policy.

The Department also failed to satisfy its burden of showing that it properly calculated Claimant's child support income. While the Department could not specify the amount of the child support income it used, it testified that it relied on the child support Claimant received in May 2012, June 2012, and July 2012 in calculating her gross monthly child support income. While the calculation of monthly child support income requires use of an average of the past three months' received payments, if payments for the past three months vary, the Department must discuss the pattern of payment with the client to determine if the pattern is expected to continue. BEM 503 (October 1, 2012), p 7; BEM

505 (October 1, 2010), p 3. If the irregular pattern is expected to continue, then the Department must use the average of these three months. BEM 505, p 3. However, if there are known changes that will affect the amount of the payments for the future, then the Department must not use the past three months to prospect future support income. BEM 505, p 3. The Department must document the discussion with the client and how the amount to budget child support was determined. BEM 505, p 3.

In this case, there were considerable fluctuations in the amount of child support Claimant received during the three months prior to the August 2012 redetermination. The consolidated inquiry showed that Claimant received child support payments of \$129.90 in May 2012, \$249.32 in June 2012, and \$0 in July 2012. Claimant explained that fluctuations were due to her ex-husband changing jobs during this period and that the \$249.32 payment was an unusual monthly payment resulting from the job change. In light of the fluctuations in the child support Claimant received, the Department should have discussed the pattern of payment with Claimant before calculating her monthly child support. By failing to do so, the Department did not act in accordance with Department policy in calculating Claimant's child support income and, consequently, her unearned income.

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

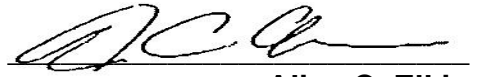
did act properly when .
 did not act properly when it closed Claimant's MA case and calculated her monthly FAP benefits for September 1, 2012 ongoing.

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. Reinstate Claimant's MA case as of September 1, 2012;
2. Allow Claimant, and her provider, to submit medical bills for medical services incurred prior to September 1, 2012;
3. Begin processing those bills in accordance with Department policy;
4. Begin recalculating Claimant's FAP budget for September 1, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision;
5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2012, ongoing; and

6. Notify Claimant of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/12/2012

Date Mailed: 10/12/2012

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:

