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

## IN THE MATTER OF:



Reg. No.: Issue No.: Case No.: Hearing Date: County:

2013-42616 2014, 3003

May 22, 2013 Macomb-12 County DHS

# ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

# HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on May 22, 2013 from Lansing, Michigan. Participants on behalf of Claimant included and Participants on behalf of Department of Human Services (Department) included

#### **ISSUE**

Did the Department proper ly determine the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

# FINDINGS OF FACT

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

- 1. As of March 29, 2012, the Claimant was receiving FAP benefits.
- 2. On or around March 29, 2012, the Claimant applied for MA benefits.
- 3. On or around March 29, 2012, the Department sent the Cla imant a notice of case action. The notice indicated the Claimant's FAP benefits were being decreased and her MA benefits were closing.
- 4. On April 22, 2013, the Claimant requested a hearing.
- 5. At no point in time did the Department consider the Claimant's application for the MA cost sharing program.

## CONCLUSIONS OF LAW

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

The FAP [formerly known as the Food Stamp (F S) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in T itle 7 of t he Code of Federal Regulations (CF R). The Department (formerly known as the Fa mily Independence Agenc y) admin isters FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

The MA program is established by the Titl e XIX of the Social Security Act and is implemented by T itle 42 of t he Code of F ederal Regulations (CFR). The Department (formerly known as the Fa mily Independence Agenc y) admin isters the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

For FAP purposes, all earned and unearned inco me available to Claimant is c ountable. Earned inc ome 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 Inde pendence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemploy ment Compensation Benefits (UCB), Adu It 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.

The State of Michigan has set guidelines for income, which determine if a Medicaid group is eligible. Income eligibility exists for the calendar month tested when there is no excess income, or allowable medical expenses equal or exceed the excess s income (under the Deductible Guidelines). BEM 545.

In this case, the Department failed to pr ovide any evidence of a budget or testimony regarding the calculations taken in determining the Claimant's eligib ility for either the FAP or MA programs. Compounding matters, the Department indicated the Claimant's FAP benefits were reduced bec ause the Claimant's shelter expenses were not verified yet there is evidence in the hearing packet of the shelter expenses and I am wondering what the Department used for shelter expenses prior to the reduction. Additionally, there was no introduction of t he actual case action issued in this case, and the Department only indic ated that the MA cas e closed due to not meeting her monthly deductible for three consecutive months. T here was no evidence of the Claimant not meeting the deductible and the hearing summary itself fails to address an MA closure.

I have carefully considered and weighed the testimony and other evidence in the record and find the Claimant to be more credible than the Department witness as the Claimant had a clearer grasp of the dates, times and events in question. Therefore, I find that more likely than not, the Claimant did apply for the MA cost sharing program and the Department thereafter lost the application and failed to log it.

Based upon the abov e Findings of Fact and Conclus ions of Law, and for the reasons stated on the record, I find the Department's actions to be in appropriate.

## **DECISION AND ORDER**

I find, bas ed upon the above Findings of Fa ct and Conclusions of Law, and for the reasons stated on the record, find the Department did not act properly

Accordingly, the Department 's FAP and MA decision is **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. Initiate a redetermination as to the Cla imant's eligibility for FAP benefits and all MA programs beginning March 29, 2013 and issue retroactive benefit s if otherwise qualified and eligible.

, C.C.t

Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services

Date Signed: May 23, 2013

Date Mailed: May 23, 2013

**NOTICE:** Michigan Administrative Hearing S ystem (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address ot her relevant iss ues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings

Recons ideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

#### CAA/las

