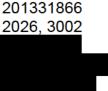
STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:





ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 from Participants on behalf of Claimant included and the second process of the benefit group acting as authorized hearings representative for the Claimant. Participants on behalf of Department of Human Services (Department) included and the second process of the benefit group.

ISSUE

Did the Department proper ly determine the Claimant's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) 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. The Claimant is an ongoing Food Assistance Program (FAP) and Medical Assistance (MA) recipient.
- 2. On the Department notified the Claim ant that she is eligible to receive F ood Assistance Program (FAP) as a group of three in the monthly amount of and was eligible for Medical Assistance (MA) with a patient deductible of \$
- 3. On the Department received the Claimant's request for a hearing, protesting the Medical A ssistance (MA) patient deductible and level of Food Assistance Program (FAP) benefits.

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 Family Independence Program (FIP) was established purs uant to the Personal Responsibility and W ork Opportunity Reconc iliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq*. The Department (formerly k nown as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq*., and Mich Admin Code, R 400.3101 t hrough R 400.3131. FI P replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistanc e Program (FAP) [for merly 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 Ass istance (MA) program is es tablished by the Title XIX of the Soc ial 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 Independ ence Agency) administers the MA pr ogram pursuant to MCL 400.10, *et seq*., and MC L 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 Disabilit y Assistance (SDA) program, which provides financial ass istance for disabled persons, is established by 2004 PA 344. The D epartment of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq*., and 2000 AACS, R 400.3 151 through R 400.3180.

☐ The Child Development and Care (CDC) program is establis hed by Titles IVA, IVE and XX of the Soc ial Security Act, the Ch ild Care and Developm ent 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 Fede ral Regulations, Parts 98 and 99. The Depart ment provides servic es to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

The Bridges Administrative Manual (BAM) 600, p. 4, provides in relevant part as follows:

The client or authorized he aring representative has 90 calendar days from the date of the written notice of case

action to request a hearing. The request must be received anywhere in DHS within the 90 days.

In this case, the Claimant's request for a hearing was received by the Department more than 90 days after the Department notified her of their eligibility determination.

However, the Claimant retains the right to pr otest her current le vel of benefits and the Claimant's request for a hearing is timely with respect to current benefits.

Additionally, the Department failed to present documents or testimony to establish that it properly determined the Claimant's current e ligibility for Food Assistanc e Program (FAP) and Medical Assistance (MA) benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on t he record, finds that the Department \square did not act properly when determining the Claimant's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) benefits.

Accordingly, the Department's \square AMP \square FIP \boxtimes FAP \boxtimes MA \square SDA \square CDC decision is \square AFFIRMED \boxtimes **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:

- Initiate a determination of the C
 laimant's e ligibility for Food Ass
 istance

 Program (FAP) and Medical Assi
 stance (MA) benefits as of
- 2. Provide the Claimant with a Notice of Case Ac tion (DHS-1605) describing the Department's revised eligibility determination.
- 3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

<u>/s/</u>

Kevin Scully Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: 03/28/2013

Date Mailed: 03/28/2013

NOTICE: Michigan Administrative Hearing Syst em (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 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 <u>MAY</u> 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

KS/kl

