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

IN THE MATTER OF:

[redacted]

Reg. No.: 2013 56108
Issue No.: 2021
Case No.: [redacted]
Hearing Date: July 31, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [redacted], Assistance Payments Supervisor, and [redacted] ES.

ISSUE

Due to excess assets, did the Department properly ☒ deny the Claimant's application ☐ close Claimant's case for:

☐ Family Independence Program (FIP)? ☐ Adult Medical Assistance (AMP)?
☒ Medical Assistance (MA)? (MEDICARE COST SAVINGS PROGRAM)?
☐ State Disability Assistance (SDA)?
☐ Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, including the testimony at the hearing, finds as material fact:

1. Claimant ☒ applied for benefits ☐ received benefits for:

☐ Family Independence Program (FIP).
☒ Medical Assistance (MA).
☐ Food Assistance Program (FAP)
☐ Adult Medical Assistance (AMP).
☐ State Disability Assistance (SDA).

2. The Claimant applied for Medical Assistance and Medicare Cost Share Programs on March 28, 2013. The Department approved the application for medical assistance with a deductible and denied the application with regard to the cost share program.

3. The Department denied the Claimant's application for the Medicare Cost Savings Program because it had no proof that the Claimant's Medicare Cost Savings case in Arizona was no longer active.

4. The Department relied on a SOLQ that it printed on April 17, 2013 which indicated that the Claimant was still receiving $104.90 from the State of Arizona for Medicaid Part B premium. Exhibit 1.

5. The Claimant was advised by letter dated May 7, 2013 received from the Social Security Administration("SSA") that the "State of Arizona will no longer pay your Medicare Medical insurance premiums after March 2013." Claimant Exhibit B

6. The Claimant faxed the SSA letter to the Department shortly after receiving the notification, however, the Claimant's Medical Application had been denied as of April 17, 2013 and no copy of the letter was in the file.

7. At the time of the Claimant's application for Food Assistance and Medical Assistance the Claimant provided a letter from the State of Arizona dated January 25, 2013 indicating that as of March 2013 the Claimant's Food Stamp benefits would be stopped. This letter was provided to the Department. The letter indicates that if the Food Stamp action affects your Medical Assistance, a separate notice will be sent. Claimant Exhibit A.

8. The Department did not request verification by verification checklist whether the Claimant was still receiving medical assistance and cost share payment of her Part B Medicare premium.

9. The Department did not email the State of Arizona or attempt any further collateral contact with the Claimant's case worker or obtain a release from the Claimant so it could do so as regards the March 28, 2013 application.

10. The Claimant's hearing request requested a hearing regarding Food Assistance, however at the hearing, the Claimant advised that at the time of the hearing request there were no FAP issues, and only recently, June 2013, she had an issue with receiving an increase in FAP benefits which cannot be covered by her March 9, 2013 hearing request as the request is before the current issue.

11. On April 17, 2013, the Department sent
☒ Claimant ☐ Claimant's Authorized Representative (AR)
notice of the ☒ denial. ☐ closure.

12. On March 29, 2013, Claimant filed a hearing request, protesting the
☒ denial of the application for Medical Assistance Cost Sharing program.
☐ closure of the case.

CONCLUSIONS OF LAW

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

☒ 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 1999 AC, Rule 400.3001 through Rule 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq*., and MCL 400.105.

Additionally, the issue in this case involves whether the Department properly denied the Claimant's application for Medicare Cost Share program based upon the April 17, 2013 SOLQ as the best available information available to it in making its decision. In this case the evidence presented by the Department regarding the Claimant's cost sharing program with Arizona consisted of an SOLQ which it ran on April 17, 2013 to attempt to determine information with regard to whether the program was still open in Arizona. The Department did not attempt to obtain information about the status of the Medicare Cost Savings Program from any other source or through collateral contact with regard to this application. The Department did not email the State of Arizona with respect to this application to determine if the Medical program was still open, and did not request by verification checklist from the Claimant whether she was still receiving that benefit from Arizona. After the denial of the Claimant's application the Claimant did receive a letter from SSA advising that after March 2013 Arizona would no longer pay Claimant's Medicare Cost Share Program. At the hearing, the Claimant asserted that because the Department was provided a letter that her FAP benefits from Arizona had closed, and several phone numbers were provided to call, the Department should have attempted to obtain and receive information from Arizona because she reasoned that her case was likely closed as she no longer resided in Arizona and the Department should have concluded that her Medical Cost Share had also ended. The same FAP letter also indicates that it only applies to FAP benefits and that if medical benefits were affected a separate notice would be provided.

BEM 222 provides:

MA and AMP Only

> Assume an MA or AMP applicant is **not** receiving medical benefits from another state unless evidence suggests otherwise. Do not delay the MA/AMP determination. Upon approval, notify the other state's agency of the effective date of the client's medical coverage in Michigan. BEM 222, pp. 2 (3/1/13)

BAM 130 provides:

> Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. pp. 1
>
> Tell the client what verification is required, how to obtain it, and the due date; see Timeliness of Verifications in this item. Use the DHS-3503, Verification Checklist (VCL), or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. pp. 2-3
>
> If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.
>
> A collateral contact is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification.
>
> The client must name suitable collateral contacts when requested. You may assist the client to designate them. You are responsible for obtain¬ing the verification. If the contact requires the client's signed release, use the DHS-27, Release of Information, (DHS-20, Verification of Resources, for inquiries to financial institutions), and specify on it what information is requested.
>
> If the information requested could include health information send a DHS-1555 or a DCH-1183, Authorization to Release Protected Health Information, for the individual’s signature.
> When talking with collateral contacts, disclose only the information necessary to obtain the needed information. Do not disclose specific programs for which the household has applied. Do not release any information supplied by the household or imply that the household is suspected of any wrongdoing.

The Department indicated that there was a protocol to be followed for contacting Arizona through a national directory although it did not provide any policy citation or other information regarding the protocol. As regards this particular application the protocol was not followed; the Department simply relied on a prior attempt regarding another prior application by Claimant that no response would be received. The Department did not attempt to obtain a consent form from the Claimant so that it could attempt to contact Arizona directly. No policy was cited to determine what forms, if any, were sent. The Department did not send any emails regarding the current application with respect to this application. Lastly the Department did not advise the Claimant that she was responsible to get information from Arizona regarding the status of her medical cost share program in that state and did not seek further verificaiton through issuance of a verification checklist for this application. The Department could not explain why no direct inquiry was made to Arizona other than it did not have a release and had to follow a protocol which did not work at some previous point. The Claimant credibily testified that she was advised by the person she spoke to in Arizona, prior to the denial of her application, that the DHS could get the information from Arizona. The Department never requested that the Claimant obtain a letter from Arizona regarding her cost share program. The Department used the SOLQ even though it knew that the SSA does not report the information timely. Based upon these facts the SOLQ was not the best available information that could have been obtained.

Based upon the evidence presented and the applicable policy regarding verification and collateral contacts and BAM 222, which requires the Department assume Claimant is **not** receiving Medical benefits from another state, it is determined that the Department improperly denied the Claimant's application for the Medicare Savings Program.

MEDICAL BENEFIT APPLICATION

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, the Department improperly denied the Claimant‘s application based upon the best available information that it had at the time which was the SOLQ

☐ properly denied Claimant’s application ☒ improperly denied Claimant’s application
☐ properly closed Claimant’s case ☐ improperly closed Claimant’s case

for: ☐ AMP ☐ FIP ☐ FAP ☒ MA ☐ SDA.

FAP BENEFITS

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, there is no issue to

be decided as a result of this hearing regarding the Claimant's FAP benefits, as at the time of the hearing request on March 29, 2013, there was no issue with regard to the Claimant's FAP benefits and no issue was outstanding.

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. ☒ did not act properly.

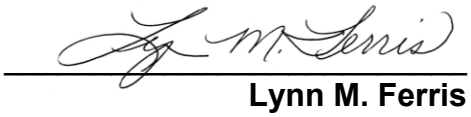
Accordingly, the Department's ☐ AMP ☐ FIP ☐ FAP ☒ MA ☐ SDA decision is ☐ AFFIRMED ☒ REVERSED for the reasons stated on the record and in this Decision.

Therefore it is Ordered:

1. The Department shall initiate re-registration and process the Claimant's March 28, 2013 application for Medical Assistance and Medicare Cost Savings Program and shall determine Claimant's eligibility for the Medicare Cost Savings program based on currently available information and in accordance with this Decision.

2. The Department shall issue a supplement to the Claimant for MA cost share premiums that the Claimant was otherwise eligible to receive beginning April 2013 ongoing in accordance with Department policy.

The Claimant's hearing request dated March 29, 2013 requesting a hearing regarding FAP benefits is hereby DISMISSED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 8, 2013

Date Mailed: August 8, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc: [redacted]