

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-69792
Issue No.: 2018; 3019; 6043
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Wayne (93/98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on November 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED] Success Coach, and [REDACTED], Lead Child Support Specialist from the Office of Child Support (OCS).

ISSUES

Did the Department properly close Claimant and her children's Medical Assistance (MA) benefits effective October 1, 2013, ongoing, due to her failure to establish paternity and/or obtain child support?

Did the Department properly close Claimant's Child Development and Care (CDC) program benefits effective August 11, 2013, ongoing, due to the gross income exceeding the limits?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective September 1, 2013, ongoing, due to the net income exceeding the limits?

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 CDC, FAP, and MA benefits.

2. On July 10, 2013, the OCS sent Claimant a first contact letter, in which she did respond.
3. On July 17, 2013, the OCS sent Claimant a second contact letter, in which she did not respond.
4. On July 22, 2013, the Department sent Claimant a Wage Match Client Notice, which was due back by August 21, 2013. See Exhibit 1.
5. On July 22, 2013, the Department sent Claimant a Notice of Case Action which notified the Claimant that one of her children's CDC benefits closed effective November 4, 2012 to December 1, 2012. See Exhibit 1.
6. On July 22, 2013, the Notice of Case Action also notified the Claimant that three of her children's CDC benefits closed effective August 11, 2013, ongoing, due to the gross income exceeding the limits. See Exhibit 1.
7. On July 22, 2013, the Notice of Case Action also notified Claimant that her FAP benefits closed effective September 1, 2013, ongoing, due to her net income exceeding the limits. See Exhibit 1.
8. On August 13, 2013, the OCS sent Claimant a non-cooperation letter and Claimant was in non-cooperation as of this date.
9. On September 4, 2013, the Department sent Claimant a Notice of Case Action notifying her that the MA benefits closed effective October 1, 2013, ongoing, due to the non-cooperation with the OCS. See Exhibit 1.
10. On September 24, 2013, Claimant filed a hearing request, protesting her MA closure, CDC closure, and FAP closure. See Exhibit 1.
11. Once the OCS was notified of the hearing request, it sent Claimant another contact letter on September 24, 2013.
12. On September 27, 2013, Claimant contacted the OCS support specialist and provided information; however, the support specialist determined that Claimant did not provide enough information about the absent parent.
13. On October 3, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which notified her of the hearing on October 23, 2013. See Exhibit 1.
14. On October 23, 2013, an Administrative Law Judge sent Claimant an Order Granting Adjournment. See Exhibit 1.
15. On October 24, 2013, the OCS attempted to contact the Claimant to resolve the non-cooperation.

16. On or around October 31, 2013, Claimant left a voicemail for the OCS and provided the address information regarding the absent parent.
17. On October 31, 2013, the OCS verified the information and Claimant was in cooperation with the OCS as of this date.
18. On November 1, 2013, the MAHS sent Claimant a Notice of Hearing, which notified her of the rescheduled hearing on November 20, 2013. See Exhibit 1.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

MA benefits

In this case, on July 10, 2013, the OCS sent Claimant a first contact letter, in which she did respond. On July 17, 2013, the OCS sent Claimant a second contact letter, in which she did not respond. On August 13, 2013, the OCS sent Claimant a non-cooperation letter and Claimant was in non-cooperation as of this date. Thus, on September 4, 2013, the Department sent Claimant a Notice of Case Action notifying her that the MA benefits closed effective October 1, 2013, ongoing, due to the non-cooperation with the OCS. See Exhibit 1. On September 24, 2013, Claimant filed a hearing request, protesting her MA closure. See Exhibit 1. Once the OCS was notified of the hearing

request, it sent Claimant another contact letter on September 24, 2013. On September 27, 2013, Claimant contacted the OCS support specialist and provided some information; however, the support specialist determined that Claimant did not provide enough information to verify the absent parent. On October 24, 2013, the OCS attempted to contact the Claimant to resolve the non-cooperation. On or around October 31, 2013, Claimant left a voicemail for the OCS and provided the address information regarding the absent parent. On October 31, 2013, the OCS verified the information and Claimant was in cooperation with the OCS as of this date.

At the hearing, Claimant testified that she received the second contact letter on July 17, 2013. Claimant testified that she attempted to contact the OCS support specialist after receiving the second letter and left her a voicemail. Claimant testified that the support specialist contacted her a week later. Claimant testified that she told the support specialist she could only give the name and other information regarding the absent parent. It should be noted that the Department testified that it did not indicate any contact with the Claimant before the hearing request dated September 24, 2013.

The custodial parent or alternative caretaker of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (July 2013), p. 1.

Failure to cooperate without good cause results in disqualification. BEM 255, p. 2. Disqualification includes member removal, as well as denial or closure of program benefits, depending on the type of assistance (TOA). BEM 255, p. 2.

Cooperation is a condition of eligibility. BEM 255, p. 9. Cooperation is required in all phases of the process to establish paternity and obtain support. BEM 255, p. 9. It includes all of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests).

BEM 255, p. 9.

For MA cases, failure to cooperate without good cause results in member disqualification. BEM 255, p. 13. The adult member who fails to cooperate is not eligible for MA when both of the following are true: the child for whom support/paternity action is required receives MA and the individual and child live together. BEM 255, p. 13. The child's MA eligibility is not affected by the adult member's disqualification. BEM 255, p. 13. The adult member's MA must have an ex-parte review before closure because of a failure to cooperate. BEM 255, p. 13.

Based on the foregoing information and evidence, the Department properly disqualified and closed Claimant's MA benefits for only October 2013. However, due to Claimant being in cooperation as of October 31, 2013, her MA benefits should have been reinstated as of November 2013, ongoing. The Department credibly testified that Claimant first contacted the OCS on September 27, 2013. Moreover, Claimant eventually complied with the OCS as of October 31, 2013, when she provided the necessary address information regarding the absent parent. BEM 255, p. 9. Thus, Claimant's MA benefits will remain closed for October 2013; however, it will be reinstated as of November 2013, ongoing.

Additionally, the Department improperly closed Claimant's children's MA benefits effective October 1, 2013, ongoing, in accordance with Department policy. BEM 255 states that a child's MA eligibility is not affected by the adult member's disqualification. BEM 255, p. 13. However, the children MA eligibility was affected when the Notice of Case Action indicated the children's MA benefits closed due to the non-cooperation. See Exhibit 1. The Department will be ordered to reinstate the children's MA benefits as of October 1, 2013, ongoing.

CDC benefits

In this case, Claimant was an ongoing recipient of CDC benefits. On July 22, 2013, the Department sent Claimant a Notice of Case Action which notified the Claimant that one of her children's CDC benefits closed effective November 4, 2012 to December 1, 2012. See Exhibit 1. It should be noted that Claimant testified that she is not disputing this child's CDC closure. On July 22, 2013, the Notice of Case Action also notified the Claimant that three of her children's CDC benefits closed effective August 11, 2013, ongoing, due to the gross income exceeding the limits. See Exhibit 1. However, Claimant testified that she is disputing the closure of the August 11, 2013, CDC benefits.

At the hearing, on July 22, 2013, the Department sent Claimant a Wage Match Client Notice, which was due back by August 21, 2013. See Exhibit 1. The Department testified that the wage match led to the CDC closure. The Department testified that Claimant was receiving 100% CDC coverage due to being part of the Work First program. However, the Department discovered that Claimant is working 40 hours a week and had to change her CDC benefits to an employment based, which would change the coverage to 80%. Thus, the Department testified that once it put Claimant's income in the system, it closed the CDC benefits because she is no longer in Work First program and she is working more than 40 hours a week. It should be noted that a review of Claimant's Eligibility Summary indicated her FIP benefits closed as of December 1, 2012, ongoing. See Exhibit 1.

It was first not disputed that the group size is three. The Department testified that the July 2013 budget shows a gross income of \$2,156. The Department testified that it

used this employment budget to determine the CDC closure from the July 2013 pay periods (Work First source).

At the hearing, Claimant testified that she works four days a week, makes \$11.50 an hour, she works 40 and/or 45 hours a week, and is paid weekly. Claimant did not dispute the Department's \$2,156 gross income calculation. Claimant also appeared to amend her CDC need and was concerned for CDC coverage for only two of her children.

For income eligible CDC determinations, the income of all program group members must be considered. BEM 525 (July 2013), p. 1. The Department uses the gross (before deductions) countable, monthly income to determine the amount the Department will pay (department pay percent) towards the group's child care costs. BEM 525, p. 1. The Department will not contribute to child care when the gross monthly income for a group size of 3 is over \$1,990.00. RFT 270 (October 2011), p. 1. The Department will not contribute to child care when the gross monthly income for a group size of 1 or 2 is over \$1,607.00. RFT 270, p. 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

Based on the foregoing information and evidence, the Department properly closed Claimant's CDC benefits effective August 11, 2013, ongoing. A review of Claimant's July 2013 pay period summary indicated the following: paid on 7/3/2013 in the amount of \$540; paid on 7/11/2013 in the amount of \$382; paid on 7/18/2013 in the amount of \$491; and paid on 7/25/2013 in the amount of \$591. See Exhibit 1. Using these amounts and converting it to the standard monthly amount, this results in standard monthly amount of \$2,154. BEM 505, pp. 7-8. This amount is over the gross monthly income for a group size of 3. RFT 270, p. 1. Additionally, this amount is also over the gross monthly limit for a group size of 1 or 2. RFT 270, p. 1. In summary, Claimant's monthly gross income exceeds the limits for both group sizes of 2 and 3. See RFT 270, p. 1. The Department properly closed her CDC benefits effective August 11, 2013, ongoing.

FAP benefits

Claimant is an ongoing recipient of FAP benefits. On July 22, 2013, the Notice of Case Action also notified Claimant that her FAP benefits closed effective September 1, 2013, ongoing, due to her net income exceeding the limits. See Exhibit 1.

BEM 556 states that if the income amount exceeds the maximum monthly net income, then deny benefits. BEM 556 (July 2013), p. 5. RFT 250 indicates that the net income (100%) limit for a group size of five is \$2,251. RFT 250 (October 2012), p. 1.

It was not disputed that the group size is five. During the hearing, the budget summary on the Notice of Case Action (dated July 22, 2013) was reviewed. See Exhibit 1. Also, two of Claimant's children received Supplemental Security Income (SSI) and are therefore, Senior/Disabled/Veteran (SDV) group members.

A review of the budget indicated a gross earned income of \$2,324. See Exhibit 1. The Department calculated this amount based on the July 2013 income. However, this amount is different than what was calculated for the CDC budget. As indicated previously, the CDC budget indicated a July 2013 earned income of approximately \$2,156. The Department indicated, though, the budget could have reflected the month prior, which would have been June 2013. The Department was unable to testify which amounts it used to calculate the gross earned income.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to testify how it calculated the \$2,324 gross earned income. There are differences between the CDC and FAP July 2013 earned incomes and the Department was unable to account for this difference.

It should be noted that the Department calculated Claimant's unearned income to be \$1,448. A review of the SOLQ documents indicated that each of Claimant's children (two children total) received \$710 in SSI. See Exhibit 1. This results in a total of \$1,420 in SSI monthly income. See BEM 503 (July 2013), pp. 31-32. Moreover, each child received State SSI Payments (SSP), which resulted in a total unearned income of \$1,448. See BEM 503, p. 33. It should also be noted that Claimant's housing costs were \$525 as well. See Exhibit 1.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) acted in accordance with Department policy when it disqualified and closed Claimant's MA benefits for only October 2013; (ii) did not act in accordance with Department policy when it disqualified and closed Claimant's MA benefits from November 2013, ongoing;

(iii) did not act in accordance with Department policy when it improperly closed Claimant's children's MA benefits effective October 1, 2013, ongoing; (iv) acted in accordance with Department policy when it properly closed Claimant's CDC benefits effective August 11, 2013, ongoing; and (v) did not act in accordance with Department policy when it improperly closed Claimant's FAP benefits effective September 1, 2013, ongoing.

Accordingly, the Department's MA decision is AFFIRMED IN PART with respect to Claimant's MA disqualification and closure of benefits only for October 2013 and REVERSED IN PART with respect to Claimant's MA closure/disqualification from November 2013, ongoing, and the children's MA closure from October 1, 2013, ongoing.

Also, the Department's CDC decision is AFFIRMED and the FAP decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove Claimant's non-cooperation status with the Office of Child Support as of October 31, 2013, if any;
2. Remove Claimant's MA disqualification as of October 31, 2013, if any;
3. Reinstate Claimant's MA benefits as of November 2013, ongoing; begin recalculating Claimant's MA benefits and issue supplements to Claimant for any benefits she was eligible to receive but did not from November 2013, ongoing, in accordance with Department policy;
4. Reinstate Claimant's children's MA benefits as of October 2013, ongoing; begin recalculating Claimant's children's MA benefits and issue supplements to Claimant's children for any benefits they were eligible to receive but did not from October 2013, ongoing, in accordance with Department policy;
5. Reinstate Claimant's FAP benefits as of September 1, 2013, ongoing; begin recalculating Claimant's FAP benefits and issue supplements to Claimant for any benefits she was eligible to receive but did not from September 1, 2013, ongoing, in accordance with Department policy; and

6. Notify Claimant in writing of its FAP and MA decisions in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 2013

NOTICE OF APPEAL: 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.

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).

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]