

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

IN THE MATTER OF:

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Reg No.: 2014-2518
Issue No.: 2006, 3014
Case No.: ██████████
Hearing Date: November 6, 2013
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, November 6, 2013. Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was ██████████.

ISSUE

Whether the Department properly determined Claimant's Food Assistance Program ("FAP") group composition.

Whether the Department properly terminated Medical Assistance ("MA") benefits effective October 1, 2013.

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 MA and FAP recipient.
2. On June 25, 2013, Claimant's child was born.
3. The Department sent Claimant a redetermination packet to be submitted in mid-September.

4. On September 19, 2013, the Department sent a Notice of Case Action to Claimant informing her that her benefits would terminate as of October 1, 2013 based on the failure to submit the requested verifications.
5. On September 30, 2013, the Department received Claimant's timely written request for hearing.
6. On October 1, 2013, Claimant' MA and FAP benefits terminated.
7. On October 2, 2013, the Department re-opened MA benefits for Claimant's child and found Claimant eligible for FAP benefits in the amount of \$355.00 for a group size of 2.

CONCLUSIONS OF LAW

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

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. BAM 105 (July 2013), p. 6. For FAP purposes, benefits stop at the end of the benefit period **unless** a redetermination is completed **and** a new benefit period is certified. BAM 210 (July 2013), p. 2. If the client does not complete the redetermination process, benefits expire at the end of the benefit period. BAM 210, p.10.

For FAP purposes, parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212 (July 2013), p. 1. For FAP purposes, the Department must act within 10 days of becoming aware of a change for changes reported by means other than a tape match. BAM 220 (July 2013), p. 6. For FAP increases, the change must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6.

An ex parte review is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BAM 210 (July 2013), p. 1. When possible, an ex parte review should begin at least 90 calendar days before the anticipated change is expected to result in case closure. BAM 210, p. 1. The review includes consideration of all MA categories. BAM 210, p. 1.

In this case, Claimant received MA benefits based on her pregnancy. Claimant also was an ongoing FAP recipient. Claimant promptly notified the Department within a few days of her child being born; however, her group composition for FAP purposes was not increased. Subsequently, Claimant's case was reviewed. Claimant testified credibly that she submitted the requested verifications prior to the closure of her FAP benefit period. On September 19th, the Department sent a Notice of Case Action to Claimant informing her that her benefits would terminate based on the failure to submit requested verifications. The Department received Claimant's timely request for hearing; however, Claimant's benefits terminated effective October 1, 2013.

On October 2, 2013, the Department reinstated MA benefits for Claimant's newborn child but did not activate MA coverage for Claimant despite being the primary caretaker. Additionally on this date, the Department re-calculated Claimant's FAP eligibility by changing the group size to two, resulting in a FAP allotment of \$ [REDACTED] for October and [REDACTED] as of November. Claimant does not dispute the current level of FAP benefits but correctly asserts that the FAP benefits should not have closed and that the increase should have taken place sooner.

After review of the entire record, it is found that the Department improperly terminated Claimant's MA benefits. Prior to the termination, an ex-parte review should have been completed to determine MA eligibility based on having a minor child in the home. Further, Claimant testified credibly that she timely submitted her redetermination packet. The Department confirmed receipt of the packet but, because it was not date stamped, the Department was unable to ascertain the date it was submitted. That being stated, Claimant's request for hearing, which was received by the Department on September 30th specifically references that all the required paperwork was submitted so presumably, the information was provided to the Department in September, prior to the termination of benefits. Additionally, Claimant notified the Department of a change in circumstance, namely group composition, at the end of June 2013. Pursuant to BAM 220, Claimant's FAP benefits should have increased effective August 1, 2013.

Ultimately, it is found that the Department failed to establish it acted in accordance with Department policy when it failed to adjust Claimant's group composition for FAP benefits and when it terminated Claimant's MA and FAP benefits as of October 1, 2013. Accordingly, the Department's actions are REVERSED.

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, finds the Department failed to establish it acted in accordance with department policy when it failed to adjust Claimant's FAP group composition and when it terminated Claimant's MA and FAP benefits.

Accordingly, it is ORDERED:

1. The Department's MA and FAP actions are REVERSED.
2. The Department shall initiate re-calculation of Claimant's FAP benefits effective August 1, 2013 ongoing, based on a group size of two, in accordance with Department policy.
3. The Department shall initiate supplementation of FAP benefits that the Claimant was entitled to receive but did not as of August 1, 2013, if otherwise eligible and qualified and in accordance with Department policy.
4. The Department shall determine Claimant's MA eligibility as of October 1, 2013, based on her status of a caretaker of a minor child and notify Claimant accordingly.
5. The Department shall supplement for lost MA benefits (if any) that Claimant was entitled to receive if otherwise eligible and qualified, in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 14, 2013

Date Mailed: November 14, 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

CMM/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]