

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

IN THE MATTER OF:

██████████
██████████████████
██

Reg. No.: 2014-3742
Issue Nos.: 2018, 3016
Case No.: ██████████
Hearing Date: November 4, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on November 4, 2013, from Madison Heights, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██

ISSUES

1. Did the Department properly provide Medical Assistance (MA) coverage to Claimant's two college-age daughters?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for September 1, 2013, ongoing?

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 MA and FAP.
2. After the Department closed Claimant's MA case, Claimant requested a hearing.
3. In her August 8, 2013, Hearing Decision, the Administrative Law Judge (ALJ) reversed the Department's closure of Claimant's MA case and ordered the Department to determine the group's eligibility for MA coverage under the Low-Income Families (LIF) program.

4. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that effective September 1, 2013 (1) he, his wife and his two minor children were approved for MA coverage under the LIF program, and (2) his monthly FAP benefits were being reduced to \$591 because his child [REDACTED] a full time college student, was being removed from the FAP group.
5. On September 27, 2013, Claimant filed a request for hearing disputing his reduced FAP benefits and the denial of MA for his two daughters, [REDACTED].

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.

Additionally, in his hearing request filed on September 27, 2013, Claimant requested a hearing concerning the denial of MA coverage for his two daughters, Riva and Rita, and the decrease in his FAP benefits. The hearing request was tied to the Department's September 18, 2013, Notice of Case Action approving Claimant, his wife, and their two minor children's MA coverage under the LIF program and reducing the group's FAP benefits.

MA Coverage

The ALJ's August 8, 2013, Hearing Decision ordered the Department to determine Claimant's household's eligibility for ongoing MA coverage, particularly under the MA-LIF program. In the September 18, 2013, Notice of Case Action, the Department notified Claimant that he, his wife and their two minor children were eligible for MA coverage under the LIF program from September 1, 2013, ongoing. Claimant's two other children, [REDACTED] were not referenced in the Notice.

At the hearing, the Department presented evidence that both Rita and Riva received full MA coverage under the Under Age 21 program from August 1, 2013, ongoing. See BEM 132 (June 2013), pp. 1-2. While the Department could not explain why [REDACTED]

██████████ were not referenced in the September 18, 2013, Notice of Case Action, it is noted that, because they were over age 18 and no longer high school students, neither ██████████ would be eligible for MA coverage under the LIF program, unlike the remaining family members. See BEM 110 (June 2013), pp. 4-6. Because the Department presented evidence that ██████████ received full-MA coverage, the Department acted in accordance with Department policy when it processed the ALJ's order to determine MA eligibility for all household members.

At the hearing, Claimant expressed frustration with the Department's delay in processing the ALJ's decision. The Department explained that the delay was due in part to the fact it was required to request a ticket in order to comply with the ALJ's order. Claimant also was concerned that, although the Notice of Case Action indicated that he and his wife had MA coverage effective September 1, 2013, his wife was advised by her medical provider on September 9, 2013, that she did not have coverage and was denied services. However, the Notice was dated September 18, 2013, showing that MA coverage was provided retroactively to September 1, 2013.

FAP Benefits

The September 18, 2013, Notice of Case Action informed Claimant that, effective October 1, 2013, his FAP benefits were decreasing to \$591 monthly. Because an FAP budget was not included with the hearing packet, the figures and information in the September 18, 2013, Notice of Case Action used to calculate the household's FAP benefits was reviewed at the hearing.

The Notice showed that ██████████ were excluded from the FAP group, leaving an FAP group size of four. At the hearing, the Department explained ██████████ were full-time college students ineligible for FAP benefits. Full-time college students between age 18 and 49 are not eligible for FAP benefits unless they meet one of the eligibility criteria outlined in policy, which includes participation in a work-study program, employment for at least 20 hours weekly, being mentally or physically unfit to work, or caring for a minor child. BEM 254 (July 2013), pp. 3-4. Both in his redetermination and at the hearing, Claimant verified that ██████████ were full-time college students. Based on his testimony, they did not meet any of the criteria for FAP eligibility. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant's FAP group had four eligible members.

The Department testified that the \$1,118 in earned income reflected on the Notice was Claimant's earned income based on his weekly \$280 income. A client's gross weekly earned income must be multiplied by 4.3 to determine a monthly amount for FAP purposes. BEM 505 (October 2010), p. 7. Claimant is eligible for a 20% earned income deduction. See BEM 556 (July 2011), p. 3. The earned income shown in the Notice is not consistent with the Department's testimony concerning the information it used to calculate gross monthly earned income. Because the Department failed to establish how it calculated the \$1,118 in earned income, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits.

At the hearing, evidence was presented that Claimant reported to the Department on September 6, 2013, that his earned gross weekly income decreased to \$200, effective with the paycheck issued to him on September 6, 2013. Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. BEM 505 (October 2010), pp. 8-9. If verification is required or deemed necessary, the Department must allow the household 10 days from the date the change is reported or from the date the verification is requested to provide verification, but the change must still affect the correct issuance month, i.e., the month after the month in which the 10th day after the change is reported. BEM 505, p. 9.

Because Claimant reported the changed income on September 6, 2013, the first issuance ten days after the reported change is the October 2013 issuance. The Department testified that Claimant timely responded to the October 3, 2013, Verification Checklist. As such, the reported change in income should affect the October 2013 FAP issuance.

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 acted in accordance with Department policy when it applied MA coverage to Claimant's college-age daughters but failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP budget.

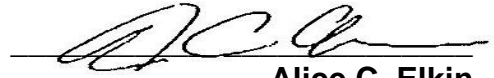
DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to Claimant's daughter's MA cases and REVERSED IN PART with respect to calculation of Claimant's FAP benefits.

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. Recalculate Claimant's FAP benefits for September 2013 based on income available at that time;
2. Recalculate Claimant's FAP benefits for October 1, 2013, ongoing based on Claimant's verified income decrease; and

3. Issue supplements to Claimant for any FAP benefits he is eligible to receive but did not from September 1, 2013, ongoing.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 12, 2013

Date Mailed: November 13, 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

ACE/pf

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