

**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.: 2014-6425
Issue No.: 1021; 2026; 3003; 4013; 6043
Case No.: ██████████
Hearing Date: November 21, 2013
County: Oakland (4)

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 telephone hearing was held on November 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's Family Independence Program (FIP) and/or State Disability Assistance (SDA) program application effective September 1, 2013, ongoing?

Did the Department properly decrease Claimant's Food Assistance Program (FAP) allotment in the amount of \$221 effective October 1, 2013?

Did the Department properly deny Claimant's Child Development and Care (CDC) program application effective August 11, 2013, ongoing?

Did the Department properly calculate Claimant's husband's Medical Assistance (MA) deductible?

FINDINGS OF FACT

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

1. On August 14, 2013, Claimant submitted a Change Report (DHS-2240), which indicated that Claimant's husband moved back into the home as of June 1, 2013. See Exhibit 1.
2. On August 15, 2013, Claimant applied for cash (FIP/SDA), FAP, CDC, and MA benefits. See Exhibit 1.
3. On September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her cash application was denied effective September 1, 2013, ongoing. See Exhibit 1.
4. On September 17, 2013, the Notice of Case Action also notified Claimant that her FAP benefits decreased to \$221 effective October 1, 2013. See Exhibit 1.
5. On September 17, 2013, the Notice of Case Action also notified Claimant that her CDC benefits were denied effective August 11, 2013, ongoing. See Exhibit 1.
6. On September 17, 2013, the Notice of Case Action also notified Claimant that her husband was approved for Group 2 Caretaker Relatives (G2C) Medicaid with a monthly deductible of \$452 effective August 1, 2013, ongoing. See Exhibit 1.
7. On October 8, 2013, Claimant filed a hearing request, protesting her cash denial, her husband's MA deductible, CDC denial, and FAP allotment. 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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.

FIP/SDA application

On August 14, 2013, Claimant submitted a Change Report (DHS-2240), which indicated that Claimant's husband moved back into the home as of June 1, 2013. See Exhibit 1. Then, on the next day, Claimant applied for cash assistance. See Exhibit 1. The Department testified that when it processed the application and change report, the husband was added to the household. Moreover, the Department testified that the husband's income was active in its system and was put into the current budget because it was never reported to have ended. The Department testified that this income was based on 2011 reports and that it did not request a Verification Checklist (VCL), in which to verify his income. The Department testified that budgeting his income resulted in the denial of cash benefits. Thus, on September 17, 2013, the Department sent Claimant a Notice of Case Action notifying her that her cash application was denied effective September 1, 2013, ongoing. See Exhibit 1. It should be noted that the denial reason for the cash application states that one of the individuals currently receives supplemental security benefits and is not included in the group. However, the Department testified that the cash application was denied due to excess income. Therefore, the Department presented a FIP/SDA – Income Test for the benefit period of October 2013 to be reviewed during the hearing. See Exhibit 1.

Claimant testified that at the time of the application her husband was not employed. Moreover, a review of the application and change report indicated no employment income reported. See Exhibit 1. Claimant, though, testified that her husband did have new employment, which was a month after the application (on or around September 2013). Claimant testified that she reported the change in the beginning of October.

It is not disputed that the group size is six. One of Claimant's children is an ineligible grantee because they are an SSI recipient. See BEM 515, p. 2.

For FIP/SDA cases, the certified group must be in financial need to receive benefits. BEM 515 (July 2013), p. 1. Need is determined to exist when budgetable income is less than the payment standard established by the department. BEM 515, p. 1. Program, living arrangement, grantee status and certified group size are variables that affect the payment standard. BEM 515, p. 1. RFT 210 indicates that the FIP monthly assistance payment standard for eligible/ineligible grantee group size of six is \$828. RFT (January 2009), p. 1.

Financial need must exist to receive benefits. BEM 518 (July 2013), p. 1. Financial need exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test and the Child Support Income Test. BEM 518, p. 1.

At application, the Department performs the qualifying deficit test by subtracting budgetable income from the certified group's payment standard for the application month. BEM 518, p. 1. For FIP only, the group is ineligible for the application month if no deficit exists. BEM 518, p. 3. To perform the issuance deficit test, the Department subtracts budgetable income from the certified group's payment standard for the benefit month. BEM 518, p. 1. To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the certified group's payment standard. BEM 518, p. 1.

In this case, the Department calculated an earned income of \$1,720. See Exhibit 1. The Department based this amount on Claimant's husband's income dating back to 2011. Then, the Department deducted \$200 from each person's countable earnings. BEM 518, p. 5. Then it deducts an additional 20 percent of each person's remaining earnings. BEM 518, p. 5. This results in a net earned income of \$1,216. See Exhibit 1.

Also, the Department conducted an unearned income calculation as well. The budget indicated Claimant's voluntary support was \$81.80, which she did not dispute. See BEM 518, p. 2. The Department also included Claimant's \$820.90 in Retirement, Survivors, and Disability Insurance (RSDI) benefits, which she did not dispute. This resulted in a total unearned income of \$902.70. See Exhibit 1. The Department also excluded \$50 for the child support exclusion and \$51 in support paid. See BEM 518, pp. 2 and 4. Ultimately, the Department determined the total countable income is \$1,115 and Claimant failed both the qualifying test and income test results. See Exhibit 1.

However, as stated above, Claimant indicated that her husband was not working at the time of application and therefore, the Department should have not budgeted his income. Additionally, Claimant indicated that he pays out approximately \$551 in child support and not \$51 in support paid.

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (July 2013), p. 7. The Department tells the client what verification is required, how to

obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3.

Based on the foregoing information and evidence, the Department improperly denied Claimant's cash application. There is clearly a discrepancy that exists as to her husband's income and child support paid. Claimant did not indicate any income in the change and/or the application. However, the Department's system indicated that he did have such income. Therefore, the Department should have sent Claimant a VCL to verify his income and resolve the discrepancy before determining eligibility. See BAM 130, pp. 3 and 7. Moreover, a review of the application indicated that Claimant did state she pays court-ordered child support, which the Department did not verify either. Thus, the Department will reprocess the cash application; initiate the necessary verifications in accordance with Department policy; and determine her cash eligibility.

FAP benefits

On August 15, 2013, Claimant also applied for FAP benefits. See Exhibit 1. On September 17, 2013, the Notice of Case Action also notified Claimant that her FAP benefits decreased to \$221 effective October 1, 2013. See Exhibit 1. The decrease is due to budgeting Claimant's husband's income.

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.

It is not disputed that the certified group size was seven. The October 2013 FAP budget was reviewed for the hearing. See Exhibit 1. The Department calculated a gross earned income of \$1,720, which was Claimant's husband's employment. However, based on the previous analysis, the same policy applies. The Department should have sent Claimant a VCL to verify his income and resolve the discrepancy before determining eligibility. See BAM 130, pp. 3 and 7. Thus, the Department will recalculate the FAP benefits and initiate verification of employment.

It should also be noted that the Department will recalculate the unearned income because the Department was unable to testify on how it specifically calculated the \$1,663 in unearned income.

Additionally, Claimant and one of her children is a senior/disabled/disabled veteran (SDV) member. For groups with no SDV member(s), the Department allows dependent

care expenses and court ordered child support and arrearages paid to non-household members. BEM 554 (July 2013), p. 1. Also, for groups with one or more SDV member, the Department uses dependent care expenses, excess shelter, court ordered child support and arrearages paid to non-household members; and medical expense for the SDV member(s) that exceed \$35. BEM 554, p. 1.

A review of Claimant's application indicated she reported dependent care expenses, court ordered child support expenses, medical expenses, and shelter expenses. See Exhibit 1. However, the Department failed to send a VCL to verify such expenses. As stated in BEM 554, Claimant is eligible for all of these deductions and the budget does not appropriately reflect such calculations. Thus, the Department will recalculate the FAP budget; initiate the necessary verifications in accordance with Department policy; and issue her any supplements she is eligible to receive. See BAM 130, pp. 3 and 7.

CDC benefits

On August 15, 2013, Claimant also applied for CDC benefits. See Exhibit 1. On September 17, 2013, the Notice of Case Action also notified Claimant that her CDC benefits were denied effective August 11, 2013, ongoing. See Exhibit 1. The Department testified that it denied her CDC application because there was no need reason due to her not working.

At the hearing, Claimant testified that she does have a need reason for the CDC benefits because she was working and attending school at the time of application. A review of the application indicated that Claimant did not report any income; however, she did indicate that she was attending school full-time. See Exhibit 1. Claimant also testified that her husband was not able to take care of the children because he was doing an active job search. Claimant testified that her husband was required to do job searching based on having a child support program due to the loss of his employment.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. BEM 703 (July 2013), p. 3. P/SPs must be identified separately for each child for whom CDC is requested. BEM 703, p. 4.

There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. BEM 703, p. 3. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

1. Family preservation.
2. High school completion.
3. An approved activity.
4. Employment.

BEM 703, p. 4.

In households with two parent/substitute parents (P/SP), there may be instances when both are unavailable at the same time, due to different need reasons. BEM 703, p. 5.

Under the approved activity section, child care payments may be approved under this need reason when a client needs child care to participate in an employment preparation and/or training activity or a post-secondary education program. BEM 703, p. 8. The activity or education program must be approved by DHS and/or a listed indicated in BEM 703. BEM 703, p. 9.

Under the employment section, CDC payments may be approved for clients who are employed or self-employed and receive money, wages, self-employment profits or sales commissions within six months of the beginning of their employment. BEM 703, p. 9.

In regards to the Claimant, it appears that she would have a need reason under the approved activity section because she is in post-secondary education program. At the time of the application, she indicated that she was attending school full-time at a university. However, due to this being a two parent household, a need reason has to exist for the husband as well. BEM 703, p. 5. A review of the application indicated that Claimant did state that she needs CDC due to education/training approved by DHS or the work participation program. See Exhibit 1. Thus, Claimant's husband also appears that he has a need reason under the approved activity.

Based on the foregoing information, the Department improperly denied Claimant's CDC application effective August 11, 2013, ongoing. Claimant appropriately marked in her application that they have a need reason and the Department failed to request such verification. Again, the Department will reprocess the CDC application; initiate the necessary verifications in accordance with Department policy; and determine her CDC eligibility. See BAM 130, pp. 3 and 7.

MA deductible

On August 15, 2013, Claimant also applied for MA benefits regarding her husband. See Exhibit 1. On September 17, 2013, the Notice of Case Action also notified Claimant that her husband was approved for G2C Medicaid with a monthly deductible of \$452 effective August 1, 2013, ongoing. See Exhibit 1.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35.

At the hearing, Claimant was protesting the amount of her husband's MA deductible. The Department, though, failed to present a budget regarding his G2C Medicaid.

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 failed to present a G2C Medicaid budget in order to show how it calculated the husband's deductible. Moreover, as the previous analyses have indicated, the Department is also to determine if it applied his appropriate income. Thus, the Department will be ordered to redetermine Claimant's MA eligibility.

DECISION AND ORDER

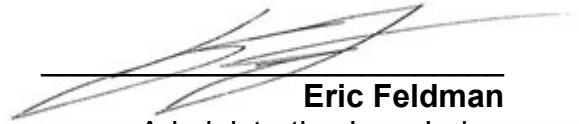
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it (i) improperly denied Claimant's cash application effective September 1, 2013, ongoing; (ii) improperly calculated Claimant's FAP benefits effective October 1, 2013, ongoing; (iii) improperly denied Claimant's CDC application effective August 11, 2013, ongoing; (iv) and failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to show how it calculated Claimant's husband MA deductible in the amount of \$452 effective August 1, 2013, ongoing.

Accordingly, the Department's cash (FIP/SDA), CDC, FAP, and MA decisions are 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. Reregister the cash (FIP/SDA) and CDC application dated August 15, 2013 application;
2. Reprocess the cash (FIP/SDA) application, initiate the necessary verifications, recalculate the budget, 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;
3. Recalculate the FAP budget, initiate the necessary verifications, and issue supplements to Claimant for any benefits she was eligible to receive but did not from October 1, 2013, ongoing, in accordance with Department policy;
4. Reprocess the CDC application, initiate the necessary verifications, recalculate the budget, and issue supplements to Claimant for any benefits she was eligible to receive but did not from August 11, 2013, ongoing, in accordance with Department policy;

5. Redetermine Claimant's husband's MA eligibility and recalculate/issue supplements to Claimant for any benefits he was eligible to receive but did not from August 1, 2013, ongoing, in accordance with Department policy; and
6. Notify Claimant in writing of its cash (FIP/SDA), FAP, CDC, 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]
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