

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20146086
Issue No.: 2006, 3003
Case No.: [REDACTED]
Hearing Date: November 19, 2013
County: SSPC-West

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's Authorized Hearing Representative/Husband) and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment?

Did the Department properly close Claimant's Medical Assistance (MA) or "Medicaid" case because Claimant failed to cooperate with the verification requirements?

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 applied for FAP and MA on July 23, 2013.
2. Claimant had a group size of 4 at all times.
3. During the relevant time period, Claimant's AHR was receiving monthly unearned income from unemployment compensation benefits (UCB) in the amount of [REDACTED].

4. On July 30, 2013, the Department mailed Claimant a verification checklist (DHS-3503) which sought verification of Claimant's husband's wages. The due date to return the verifications was August 9, 2013.
5. On August 21, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's MA and FAP cases due to failure to return requested verifications.
6. On September 19, 2013, Claimant returned verifications of her husband's wages from UCB.
7. The Department reinstated Claimant's FAP case.
8. On September 20, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's monthly FAP for [REDACTED] effective 9/19/2013-09/30/2013 and then, effective 10/1/2013-08/31/2014 for monthly FAP in the amount of [REDACTED].
9. On October 1, 2013, Claimant requested a hearing because the Department closed Claimant's MA case and Claimant challenged the Department's calculation of the monthly income for FAP purposes.

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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or

garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

Income from employment is covered in BEM 501. Wages are the pay an employee receives from another individual or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501. The Department uses the following sources of verification for tips: (1) a pay stub if client confirms the accuracy of the amount listed on the pay stub. (Tips shown on pay stubs are often a percentage of sales for tax purposes.) or (2) client statement. BEM 501.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505.

All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid weekly, the Department multiplies the average weekly amount by **4.3**. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505.

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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. The department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130. The Department sometimes will utilize a verification checklist (VCL) or a DHS form telling clients what is needed to determine or redetermine eligibility. See Bridges Program Glossary (BPG) at page 47.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. If the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

Here, Claimant requested a hearing because the Department closed her MA case and because she questioned the Department's calculation of her husband's income for FAP purposes. Claimant's AHR argued that the Department failed to properly communicate with them regarding what verifications were requested and what was needed which led to the MA closure. Despite several opportunities during the hearing, Claimant's AHR did not make any specific allegations regarding the Department's FAP income calculation. In other words, Claimant's AHR did not challenge the Department's FAP calculations. The Department, on the other hand, took the position that the MA case was closed because Claimant sent the Department verifications of the group's unearned income (UCB) more than 30 days after the date of application. According to the Department worker, the Department was able to use the late verifications to reinstate Claimant's FAP case, but not the MA case.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. During the hearing, the Administrative Law Judge asked Claimant's AHR to articulate why he requested a hearing concerning the Department's FAP calculations and where the Department erred when calculating his income. Claimant's AHR failed to provide clear and concise answers to these questions. Because Claimant's AHR failed to challenge the Department's calculations of his monthly gross income for FAP purposes, he has conceded the Department's FAP calculations. Thus, the Department properly calculated Claimant's household income and monthly FAP allotment of ██████████ for the period of 9/19/2013-09/30/2013 and then ██████████ for 10/1/2013-08/31/2014.

With regard to Claimant's MA request for hearing, the record shows that the Department closed Claimant's MA case for failure to return verifications but that Claimant turned in the requested UCB verifications more than 30 days after the date of the application. Claimant's AHR did not dispute the Department's contention nor did he indicate why he waited so long to provide the requested verifications.

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 determined Claimant's monthly FAP allotment and when it closed Claimant's MA for failure to return verifications.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 25, 2013

Date Mailed: November 25, 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

20146086/CAP

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

CAP/aca

cc:

