

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58336
Issue No.: 2000, 2015, 3003
Case No.: [REDACTED]
Hearing Date: November 25, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 25, 2013, from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED] and [REDACTED]. Claimant's daughter, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Specialist.

ISSUES

The first issue is whether Claimant is entitled to an administrative remedy based on a complaint concerning which DHS office is assigned her case.

The second issue is whether DHS abused their discretion in processing Claimant's eligibility for direct support services (DSS).

The third issue is whether DHS properly budgeted Claimant's income in determining Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility.

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 an unspecified date, Claimant submitted documents to DHS requesting payment for a vehicle repair.
2. The business selected by Claimant to repair her vehicle failed to complete the process to receive DSS payments from DHS.
3. DHS did not process Claimant's request for vehicle repair because Claimant failed to select a vendor that was eligible to receive DHS payments.
4. Claimant was an ongoing FAP and MA benefit recipient.
5. Claimant stopped receiving unemployment compensation benefits (UCB) after [REDACTED]/2013.
6. On [REDACTED]/13, DHS determined that Claimant was eligible for Medicaid subject to a \$758 deductible, effective [REDACTED]/2013, in part by factoring ongoing UCB income for Claimant.
7. On [REDACTED]/13, DHS determined that Claimant was eligible for FAP benefits, effective [REDACTED]/2013, in part by factoring ongoing UCB income for Claimant.
8. On [REDACTED]/13, Claimant requested a hearing to dispute the following: "medical assistance", FAP benefit eligibility, the location of the DHS office assigned to her case and the failure by DHS to process her vehicle repair request.

CONCLUSIONS OF LAW

Prior to a substantive analysis, it should be noted that Claimant's hearing request dated [REDACTED]/13 was previously dismissed due to Claimant's failure to appear for an administrative hearing scheduled for 8/15/13. Based on correspondence from Claimant, the Michigan Administrative Hearings System rescheduled a hearing for Claimant on [REDACTED]/13.

Claimant repeatedly stated during the hearing that she appeared for a previously scheduled hearing and was made to wait an hour by DHS. The purpose of Claimant's statements was not apparent. Claimant was repeatedly advised that the hearing scheduled for [REDACTED]/13 was her opportunity to present evidence to support disputes outlined in her hearing request from [REDACTED]/13.

Claimant requested a hearing, in part, to request a benefit transfer from the DHS office currently responsible for Claimant's benefit case. Claimant alleged that workers from the DHS office consistently mismanaged her case. There was little evidence to justify Claimant's allegation. DHS presented credible testimony that Claimant's case would have been transferred but the resolution of Claimant's direct support services request held-up the transfer. There is DHS policy to address whether Claimant is entitled to an administrative remedy of case transfer.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

BAM 600 (7/2013), p. 3.

A desire to have a case transferred is not a basis to grant a hearing. Accordingly, Claimant's hearing request is dismissed, in part.

Claimant also disputed DHS actions, which occurred after [REDACTED]/13, the submission date of her hearing request. Claimant contended that all of DHS' actions were related and part of a pattern of improper actions by DHS. There was no evidence to suggest any relationship between DHS actions DHS took before and after Claimant submitted a hearing request.

Claimant is not entitled to administrative remedies to disputes unlisted in a hearing request. A primary reason to not addressing unrelated disputes is that DHS is entitled to a notice of disputes. Thus, the hearing and subsequent Hearing Decision will only address disputes listed by Claimant's hearing request dated [REDACTED]/13.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute an alleged purposeful failure by DHS to process a vehicle repair request. Vehicle repair is a potential DSS.

There is no entitlement for DSS. BEM 232 (7/2013), p. 1. The decision to authorize DSS is within the discretion of the DHS or PATH program. *Id.*

DHS presented credible testimony that Claimant was never denied for DSS. DHS explained that the business that Claimant selected to repair her car was not registered to receive DHS payments. DHS further testified that Claimant was given a document explaining how Claimant's selected vehicle repair business could enroll to receive DHS payments. During the hearing, the alleged owner of the repair business was called. The owner testified that he thought that he enrolled to receive DHS payments. The vehicle repair business owner failed to provide persuasive specifics of how he enrolled. DHS responded that there was no evidence within the DHS database or from Claimant that

the business from which Claimant seeks a vehicle repair was enrolled to accept DHS payments. Based on the presented evidence, it is found that Claimant's selected vehicle repair business never completed the process to receive DHS payments. Accordingly, DHS did not abuse discretion in not processing Claimant's DSS request.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP benefit determination to be effective █/2013. FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. DHS presented a budget summary (Exhibit 7) and a FAP budget (Exhibits 1-2). Claimant only raised a dispute concerning income.

DHS budgeted \$1430 in wages. Claimant initially conceded that the amount was correct. Later in the hearing, Claimant stated that she was unsure if the amount was correct. Claimant presented no evidence to suggest that the amount was incorrect. Based on the presented evidence, it is found that DHS properly budgeted Claimant employment income to be \$1450/month.

DHS budgeted \$769 in unearned income. DHS clarified that the unearned income reflected Claimant's UCB income. Claimant denied receiving any unearned income as of █/2013. During the hearing, DHS conceded that Claimant received UCB in █/2013, but no UCB since █/2013. DHS conceded that the unearned income should have been \$0 for Claimant's FAP eligibility beginning in █/2013.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's hearing requested noted a dispute concerning "medical assistance". Claimant initially testified that she disputed only her own Medicaid eligibility from 6/2013.

Clients may qualify under more than one MA category. BEM 105 (10/2010), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility or the least amount of excess income. *Id.* As a non-disabled caretaker to minor children, Claimant is potentially eligible for Medicaid through the Low Income Family (LIF) and Group Two Caretaker (G2C) programs.

DHS did not present budgets regarding LIF or G2C. In the FAP benefit analysis, it was found that DHS properly calculated Claimant's, but improperly determined Claimant's unearned income. The findings are applicable to Claimant's MA eligibility. Thus, it can be presumed that DHS improperly determined Claimant's LIF and G2C eligibility based on the improper inclusion of UCB.

Allowable LIF expenses include: employment income deductions, dependent care expenses child support expenses and guardianship expenses. For G2C, deductions are given for insurance premiums, remedial services and ongoing medical expenses. Claimant did not allege having such expenses. Based on the presented evidence, DHS improperly determined Claimant's MA eligibility by budgeting UCB which Claimant no longer receives. Claimant attempted to raise a second MA benefit dispute.

Claimant testified that she also requested a hearing to dispute a termination of her daughter's Medicaid eligibility. DHS responded that the termination occurred after Claimant submitted a hearing request. Thus, it was disputed whether Claimant's hearing request dated [REDACTED]/13 could have, or did, raise a dispute of her daughter's MA eligibility.

Claimant presented a Notice of Case Action dated [REDACTED]/13 (Exhibits 3-4) and a Notice of Case Action dated [REDACTED]/13 (Exhibits 5-8). Both notices occurred shortly before Claimant's hearing request and would likely list actions that Claimant subsequently disputed. Both notices addressed Claimant's eligibility for Medicaid. Neither notice addressed Claimant's daughter's MA eligibility. This is consistent with finding that Claimant did not intend to request a hearing for her daughter's MA eligibility.

Claimant failed to specifically identify the dispute in her hearing request. Generally, a party that creates an ambiguity will have the ambiguity interpreted unfavorably. Claimant's failure to specify an objection to her daughter's MA eligibility in her hearing request somewhat justifies interpreting Claimant's request to exclude the dispute.

Claimant's daughter testified that she remembered going to the doctor in [REDACTED]/2013 and being told that she was not eligible for Medicaid. Claimant contradicted her daughter's testimony and stated that she remembered being told much sooner than [REDACTED]/2013. Claimant's daughter's testimony was more persuasive than Claimant's. It is found that Claimant learned of an alleged Medicaid termination in [REDACTED]/2013. If Claimant learned of her daughter's Medicaid termination in [REDACTED]/2013, she could not have raised the issue two months earlier. It is found that Claimant's hearing request dated [REDACTED]/13 did not intend to dispute Claimant's daughter's Medicaid eligibility.

DECISION AND ORDER


The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to dispute the DHS office assigned to her benefit case. It is further found that Claimant is not entitled to dispute adverse actions occurring after the submission of her hearing request. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not process Claimant's DSS request for vehicle repair. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP and MA eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP benefit eligibility, effective █/2013, subject to the finding that Claimant had \$0 in unearned income;
- (2) redetermine Claimant's MA benefit eligibility, effective █/2013, subject to the finding that Claimant had \$0 in unearned income;
- (3) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **PARTIALLY REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/3/2013

Date Mailed: 12/3/2013

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

CG/hw

cc:

