

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201369725
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 3, 2013
County: Oakland

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 December 3, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly notify Claimant that she had met her Medical Assistance (MA) deductible for the months of July and August 2013?
2. Did the Department properly deny Claimant's application for State Emergency Relief (SER)?

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 is a recipient of MA benefits and has been assigned a deductible.
2. On August 30, 2013, the Department mailed Claimant a notice of case action (DHS 1605) stating that she had met her MA deductible for the month of August 2013.
3. Claimant applied for SER benefits to assist with her electricity bill.

4. On August 30, 2013, the Department sent Claimant a State Emergency Relief Decision Notice (DHS 1419) stating that her application for SER benefits was being denied due to Claimant's income exceeding the allowable limit for said benefits.
5. On September 11, 2013, Claimant filed a request for hearing protesting the denial of her application for SER benefits and protesting the timing of her notice that she had reached her MA deductible.

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 Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

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.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, Claimant asserts that the department did not act properly in notifying her that she had met her MA deductible in a timely fashion. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the claimant's hearing request, the department had not taken any action to suspend, reduce, discontinue or terminate the claimant's MA benefits. Claimant has always been approved for MA benefits and there was no evidence presented that Claimant submitted a claim for assistance that was not acted upon within reasonable promptness. Under the administrative rule discussed above, Claimant does not have a right to a hearing regarding her MA benefits and thus, this Administrative Law Judge has no jurisdiction in that matter. Accordingly, the portion of Claimant's hearing request pertaining to her MA benefits is hereby DISMISSED for lack of jurisdiction.

In relation to the Claimant's SER benefits, Claimant's application was denied due to Claimant exceeding the allowable income limit. At the hearing, the Department did not present a budget to show how Claimant's income was calculated. Additionally, the Department representative testified that no deductions were considered from Claimant's income as eligibility for SER benefits does not consider deductions from a claimant's income in determining eligibility. ERM 206 states as follows:

INCOME EXPENSES

Unearned Income

Net unearned income must be determined by deducting all of the following from the gross amount received:

Mandatory withholding taxes.

Court ordered child support paid, including arrears, but not more than the amount ordered by the court. No deduction is made for paid, voluntary child support.

Payments for health insurance.

Medicare premiums that will not be reimbursed. (ERM 206, pages 4-5, 10/1/2013).

Policy clearly does allow for some deductions from a claimant's income in determining eligibility for SER benefits. As the Department was unable to articulate if Claimant has any of the allowable deductions or if said deductions were factored into determining Claimant's SER eligibility, this Administrative Law Judge finds that the Department has not met its burden of going forward to show that Claimant's application for SER benefits was properly denied due to excess income. Accordingly, the Departments actions in relation to Claimant's SER benefits should be reversed.

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

failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's application for SER benefits due to excess income.

DECISION AND ORDER

Accordingly, the Portion of Claimant's hearing request pertaining to her MA benefits is hereby DISMISSED.

Additionally, the Department's decision is

REVERSED with respect to Claimant's application for SER 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. Initiate a redetermination of Claimant's application for SER benefits and allow any deductions from Claimant's income as may be allowed per policy.
2. If Claimant is found to be otherwise eligible, issue benefits in accordance with policy.



Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/23/2013

Date Mailed: 12/23/2013

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.

201369725/CS

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

CS/sw

cc:

