

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

IN THE MATTER OF:



Reg. No.: 2014-4501
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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. A telephone hearing was first scheduled for November 13, 2013, at 3:00 pm at the Grand Traverse County Department of Human Services (Department) office. On November 14, 2013, an Order of Dismissal was issued based on the Claimant not appearing for the scheduled hearing. On November 18, 2013, an Order Vacating the Dismissal and Order to Schedule Matter for hearing was issued granting the Claimant's request to vacate the Order of Dismissal. After due notice, a telephone hearing was held on December 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department included [REDACTED] Eligibility Specialist.

ISSUES

- (1) Did the Department properly close the Claimant's Food Assistance Program (FAP) case?
- (2) Did the Department properly re-determine Medicaid eligibility for the Claimant and her daughter (A.S.)?

FINDINGS OF FACT

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

1. The Claimant's FAP and Medicaid cases were due for redetermination in September 2013.
2. Based upon changes with RSDI and child support income, the Department determined the FAP case would close, the Claimant's daughter's (A.S.) Medicaid would change from Other Health Kids full Medicaid coverage to having a monthly

spend down for Group 2 Medicaid, and the Claimant's Group 2 Medicaid spend down would increase.

3. On September 17, 2013, a Notice of Case Action was issued to the Claimant.
4. On September 30, 2013, the Claimant filed a request for hearing contesting the Department's actions.

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).

Food Assistance Program (FAP)

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Every case is allowed the standard deduction shown in RFT 255. BEM 550. Bridges counts the gross amount of current SSA-issued RSDI as unearned income. Child support is considered income to the child for whom the support is paid. BEM 503. All FAP groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. Legally obligated child support expenses are also allowed in the FAP budget. Certain verified medical expenses are also allowed to be included in the FAP budget. BEM 554.

Additionally, a non-categorically eligible non-Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550.

For the Redetermination, the Department initially re-ran the Claimant's FAP eligibility based on the changes in the RSDI and child support income. The initial FAP-EDG Net Income Results for the benefit period of October 2013 showed that the Claimant was not eligible because the net income of \$ [REDACTED] exceeded the net income limit of \$ [REDACTED] (Exhibit 10)

The Department re-ran the FAP net income test for the benefit period of October 2013 based upon additional information from the Claimant regarding child support expenses,

additional medical expenses and a mortgage. The Eligibility Specialist testified that the mortgage expense was not included when the Department re-determined eligibility because the verification provided for this expense was a Credit Agreement and Disclosure for a line of credit. (See Exhibit 8) The Eligibility Specialist testified that after re-running the FAP eligibility, the Claimant still appeared to be over the income limit. However, the submitted second FAP-EDG Net Income Results for the benefit period of October 2013 indicates that the net income test was not applicable and the Claimant was eligible for FAP with a monthly allotment of \$ [REDACTED] (Exhibit 11) The determination to close the Claimant's FAP case due to income over the limit for this program cannot be upheld based on the second FAP-EDG Net Income Results for the benefit period of October 2013 indicating the Claimant was eligible.

Medicaid

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.

For Healthy Kids Medicaid, financial eligibility is only considered at initial eligibility and annual redetermination. BEM 531. Income eligibility exists when net income does not exceed 150% of the poverty level. The income limit is in RFT 246. BEM 131. For a group size of two, the income limit, 150% of poverty level, is \$1,939. RFT 246.

For Group 2 Medicaid categories, income eligibility exists for the calendar month tested when: (1) there is no excess income and (2) allowable medical expenses equal or exceed the excess income. BEM 545

The Eligibility Specialist's testimony indicated that when the Redetermination was completed, the income changes resulted in excess income determinations that changed the Claimant's daughter's (A.S.) Medicaid from full Healthy Kids Medicaid to Group 2 Medicaid with a spend down and caused the Claimant's Group 2 Medicaid spend down to increase. However, the Department has not provided sufficient evidence to support the Medicaid eligibility determinations for October 2013. The Medicaid budget information submitted by the Department is for the benefit period of November 2013. (Exhibits 9 and 10) Further, the accuracy of the submitted determinations for November 2013 cannot be considered entirely reliable. For example, the G2-FIP Related MA (Child)-Net Income page indicates a deductible but the Eligibility Specialist testified that the Claimant's daughter (A.S.) has been put back on the Healthy Kids Medicaid effective November 2013. The Eligibility Specialist was not sure of the basis for that determination and stated she is looking into it. Accordingly, the Medicaid eligibility determinations regarding October 2013 cannot be upheld.

Request for Reimbursement for Transportation for the Hearing

On the record during the December 10, 2013 telephone hearing proceedings, the Claimant requested reimbursement of transportation costs for the hearing. The

Claimant provided her name, confirmed her address and reported mileage of 26 miles each way. This was in accordance with the BAM 600 policy that states:

Clients may request reimbursement of transportation and child care costs at the hearing. Clients must make the request on the hearing record and provide the ALJ the following information:

- Their name and address.
- For **transportation expense reimbursement**, the number of miles traveled round-trip for the hearing.
- For **child care expense reimbursement**, the provider type (for example, child care center) and a signed and dated receipt from the provider showing the full names and ages of all children for whom care was provided.

MAHS will issue the reimbursements when the total combined cost exceeds \$3.

Note: Reimbursements are computed using the least costly travel rate in the AHN 1115-1 and child care costs in RFT 270.

The Michigan Administrative Hearing System (MAHS) is processing the Claimant's request for transportation costs in accordance with the BAM 600 policy.

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 .
- did not act in accordance with Department policy when it closed the Claimant's FAP case due to excess income.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it re-determined Medicaid eligibility for the Claimant and her daughter (A.S.) effective October 2013.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .
- 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. Reinstate the Claimant's FAP case retroactive to the effective date listed on the September 17, 2013 Notice of Case Action and re-determine eligibility in accordance with Department policy.
2. Re-determine the Medicaid eligibility for the Claimant and her daughter (A.S.) retroactive to October 2013 in accordance with Department policy.
3. Issue the Claimant any supplement that she may thereafter be due.

/s/ _____
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2013

Date Mailed: December 19, 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:

20144501/CL

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CL/hj

cc:

