

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-47116
Issue Nos.: 2013, 3002
Case No.: [REDACTED]
Hearing Date: June 10, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on June 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) cases?

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 was an ongoing recipient of FAP and her two minor children received MA coverage under the Other Healthy Kids (OHK) program.
2. In connection with a redetermination, the Department recalculated Claimant's earned income.
3. On April 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective May 1, 2013, her children's MA coverage would close because her income exceeded the income limit applicable under the program and her monthly FAP benefits would be reduced to \$70 because of changes in her net income.

4. On May 10, 2013, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Reduction in FAP Benefits

In the May 2, 2013, Notice of Case Action, the Department notified Claimant that her monthly FAP benefits would be reduced to \$70 effective June 1, 2013. At the hearing, the Department presented a FAP budget showing the calculation of Claimant's FAP benefits. The FAP budget showed gross monthly income of \$2,945. In determining a group's FAP benefits, the Department must determine a best estimate of income expected to be received by the group during a specific month. BEM 505 (October 1, 2010), p. 4.

In this case, the Department testified it relied on information on the Work Number, the database from which it retrieved employment income from participating employers concerning its clients, which showed that Claimant received gross weekly pay of \$715 for the weeks ending: April 7, 2013; April 14, 2013; April 21, 2013; and April 28, 2013. However, a review of the Department's calculation shows that the Department actually considered Claimant's gross pay of \$594.96 for the week ending March 31, 2012, instead of the paycheck for April 28, 2013. Claimant's weekly pay received on the dates considered, multiplied by 4.3, in accordance with Department policy, results in gross monthly earned income of \$2,945, consistent with the amount indicated on the budget. See BEM 505 (October 2010), p. 6.

The paychecks the Department considered involved three pay periods during which Claimant worked 48 hours and one pay period during which she worked 42.18 hours. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month,

discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. An employee's wages include salaries, tips, commissions, and bonuses. BEM 501 (December 1, 2011), p. 5. While the data from the Work Number showed that there were fluctuations in the hours Claimant worked, Claimant testified that she sometimes worked an additional day shift, which was more common in the pay periods leading to July. Because Claimant was receiving overtime in the pay periods leading up to the redetermination, the Department acted in accordance with Department policy when it considered the 30-day period between March 31, 2013, and April 21, 2013, in calculating Claimant's gross monthly income. Claimant is advised to report any income changes to the Department.

A review of Claimant's FAP budget for June 2013, based on Claimant's gross monthly employment income of \$2,945, a FAP group size of 4, and monthly housing expenses of \$727.70, all which Claimant confirmed, shows that the Department calculated Claimant's monthly net income of \$1,992 and her monthly FAP benefits of \$70 in accordance with Department policy. BEM 556 (July 1, 2011); RFT 255 (October 1, 2012), p. 1; RFT 260 (December 1, 2012), p. 18.

Closure of Children's OHK Cases


The Department closed Claimant's two minor children's MA coverage under the OHK program after concluding that Claimant's income exceeded the income limit applicable under the program. Income eligibility for OHK exists when the fiscal group's net income does not exceed 150% of the poverty level. BEM 131 (October 2010), p. 2. For OHK, each child's fiscal group consists of the child and the child's parents. BEM 211 (November 1, 2012), p. 5. In this case, there were two children and Claimant was the only parent in the household. Therefore, each child had a fiscal group composed of two individuals, himself and Claimant. The OHK net income limit for a group size of two is \$1,939. BEM 131, p. 2; RFT 246 (April 1, 2013), p. 1.

Claimant's income for MA purposes based on the Department's consideration of the \$715 gross weekly income for each of the pay periods ending April 7, 2013; April 14, 2013, and April 21, 2013 and \$594.96 in gross weekly income for the pay period ending March 31, 2013, is \$2,740. BEM 530 (October 2012), pp. 2-3. To show the calculation of the household's net income of \$2,106, the Department provided a FIP-related MA income budget for each child. A review of the Department's calculation shows that it acted in accordance with Department policy when it calculated each child's fiscal group's net income of \$2,106. BEM 536 (January 2010), pp. 1-4. Because the net income for each child's fiscal group exceeds the \$1,939 OHK net income limit, the Department acted in accordance with Department policy when it closed each of Claimant's children's OHK cases for excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it closed Claimant's sons' MA coverage under the OHK program and reduced Claimant's FAP benefits.

Accordingly, for the reasons stated above and on the record, the Department's decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 17, 2013

Date Mailed: June 17, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

2013-47116/ACE

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

ACE/pf

cc:

