

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-66107  
Issue Nos.: 2006, 3002  
Case No.: [REDACTED]  
Hearing Date: October 2, 2013  
County: Oakland (63-03)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 October 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

1. Did the Department properly deny Claimant's Medical Assistance (MA) application?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

**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 July 17, 2013, Claimant applied for MA and FAP for herself, her husband and their minor child.
2. At the August 2, 2013, in-person interview with Claimant, the Department became aware that Claimant contributed to a 401(k) plan.
3. On August 2, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting by August 12, 2013, verification of Claimant's 401(k) with a statement

of the value of the plan (less any early withdrawal penalty) from the issuer or plan administrator.

4. On August 12, 2013, Claimant notified the Department that she was unable to timely obtain the 401(k) information, and the Department agreed to extend the due date to August 16, 2013.
5. When it did not receive the 401(k) information, the Department sent Claimant an August 16, 2013, Notice of Case Action approving Claimant for MA coverage under the Group 2 Caretaker (G2C) program for the month of July 2013 subject to an \$894 deductible and denying MA coverage for August 1, 2013, ongoing because Claimant failed to submit the requested 401(k) verification.
6. On August 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved for monthly FAP benefits of \$123.
7. On August 27, 2013, Claimant filed a request for hearing disputing the denial of her MA application and the amount of her FAP benefits.

### **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.

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.

Additionally, Claimant requested a hearing disputing the Department's calculation of her monthly FAP benefits and the denial of her MA application.

### **FAP Benefits**

At the hearing, the Department presented a FAP net income budget showing the calculation of Claimant's monthly FAP benefits. The budget showed earned income of \$2,450, which the Department testified was based on the four paystubs Claimant provided with her application: a July 12, 2013, paycheck for \$586.25; a July 19, 2013,

paycheck for \$556.10; a July 26, 2013, paycheck for \$581.23; and an August 2, 2013, paycheck for \$556.10. At the hearing, Claimant testified that her income fluctuated from week to week and brought in paystubs for the end of August and for September 2013 showing decreased weekly income. However, the Department countered that, at the time of application, Claimant presented the four paystubs described, that it was not aware of any fluctuations in income, and that Claimant had not advised it of any income fluctuations. The Department must use income from the past 30 days to prospect future income if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (October 2010), p. 4. Based on the facts presented, the Department properly relied on the paystubs provided at application to calculate Claimant's prospective gross monthly income. Claimant was advised to report her decreased income to the Department to possibly affect future benefits, in accordance with Department policy. See BEM 505, p. 5. The average of Claimant's weekly pay amounts based on the paystubs provided, multiplied by 4.3 in accordance with Department policy, results in gross monthly earned income of \$2,450, consistent with the amount on the budget. See BEM 505, p. 6.

Based on the evidence presented at the hearing, Claimant's FAP group was eligible for an earned income deduction, a standard deduction, and an excess shelter deduction. The earned income deduction is equal to 20% of Claimant's earned income, or \$490 in this case. See BEM 550 (February 1, 2012), p. 1. The standard deduction available to Claimant's group size of three (Claimant, her husband, and their son) at the time of her July 2013 application was \$148. RFT 255 (October 2012), p. 1. Because Claimant's FAP group did not contain a senior/disabled/veteran (SDV) member, the excess shelter deduction, based on the monthly housing expenses of \$1,025 that Claimant verified and the \$575 heat and utility standard applicable to all FAP recipients, was limited to \$469. RFT 255 (October 2012), p. 1; BEM 554, p. 1. After Claimant's total income is reduced by these deductions, her household's net income is \$1,343, as reflected on the budget.

Based on net income of \$1,343 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$123. BEM 556 (July 2011); RFT 260 (December 2012), p. 14.

### **Denial of MA Application**

The Department testified that it denied Claimant's MA application for September 1, 2013, ongoing because she failed to verify her 401(k) information.

After it became aware during an in-person interview with Claimant that she was making contributions to a 401(k) plan, the Department sent Claimant an August 2, 2013, Verification Checklist (VCL) requesting verification of the value of the plan (less any early withdrawal penalty) from the issuer or plan administrator by August 12, 2013. Retirement plans, including 401(k) plans, are assets considered in assessing eligibility for MA coverage for individuals seeking coverage in connection with having minor children in the home. BEM 400 (July 2013), p. 18. The value of the plan is the amount

of money the person can currently withdraw from the plan less any early withdrawal penalty. BEM 400, p 18. Thus, the Department acted in accordance with Department policy when it requested verification of the value of the 401(k) plan.

The Department testified that when Claimant notified the Department on August 12, 2013, that she was unable to obtain the requested information, it agreed to extend the due date to August 16, 2013, and denied the MA case when it did not receive the verification by August 16, 2013. BAM 130 (May 2012), p. 5, provides that the Department must allow a client 10 calendar days to provide requested verification and, if the client cannot provide the verification despite a reasonable effort, it must extend the time limit up to three times. In this case, by providing only a four-day extension, the Department did not act in accordance with Department policy. However, Claimant admitted at the hearing that, as of the hearing date, nearly two months after the initial VCL was sent to her, she did not have the verification requested by the Department. Because Claimant was unable to provide the verification in a timely manner even if the Department had properly extended the due date, the Department acted in accordance with Department policy when it denied Claimant's MA case. While the Department indicated that it processed only Claimant's request for MA coverage, not her husband's, the failure to verify assets would have resulted in denial of the husband's MA application as well.

### **DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: October 8, 2013

Date Mailed: October 8, 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

ACE/pf

cc:

