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

IN THE MATTER OF:

[redacted]

Reg. No.: 201368856
Issue No.: 2012, 3002
Case No.: [redacted]
Hearing Date: October 17, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [redacted] (Claimant).[1] Participants on behalf of the Department of Human Services (Department) included [redacted] (Eligibility Specialist) and [redacted] (Family Independence Manager).[2]

ISSUES

Did the Department properly reduce Claimant's Food Assistance Program (FAP) monthly allotment?

Did the Department properly determine Claimant's Medical Assistance (MA) or "Medicaid" 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. Claimant was active for FAP at [redacted] per month.

[1] Claimant indicated on her request for hearing that she was represented by attorney [redacted] of [redacted]. On October 7, 2013, [redacted] faxed a letter to the Michigan Administrative Hearing System (MAHS) indicating that he does not represent Claimant and that he will not attend the hearing.

[2] On October 3, 2013, Assistant Attorney General [redacted] sent MAHS her appearance on behalf of the Department.

2. On July 1, 2013, the Department mailed Claimant a Semi-Annual Contact Report (DHS-1046).

3. On August 1, 2013, the Department received Claimant's completed DHS-1046 which indicated that she received unemployment benefits.

4. The Department processed Claimant's DHS-1046 and then, on August 29, 2013, mailed Claimant a Notice of Case Action (DHS-1605) which reduced Claimant's monthly FAP to [redacted] effective September 1, 2013.

5. Claimant was active for SSI Medicaid until the Department, on May 16, 2013, mailed a Notice of Case Action (DHS-1605) which placed her SSI Medicaid case into closure, effective June 1, 2013.

6. On July 31, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her SSI Medicaid case effective September 1, 2013.

7. Claimant submitted an application for Medicaid on August 26, 2013.

8. On September 3, 2013, Claimant requested a hearing concerning the FAP reduction and termination of her SSI Medicaid benefits.[3]

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).

Claimant requested a hearing concerning two programs: the Food Assistance Program (FAP) and the Medical Assistance (MA) or "Medicaid" program. The Administrative Law Judge will address both issues separately.

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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned,

[3] At the hearing on October 17, 2013, the Administrative Law Judge granted AAG [redacted] oral motion to withdraw her representation as counsel for the Department.

including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505.

For current and future months, policy indicates that the Department should prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505. (Whenever possible, the Department should seek input from the client to establish an estimate). To prospect income, the Department will need to know: (1) the type of income and the frequency it is received (such as, weekly); (2) the day(s) of the week paid; (3) the date(s) paid; (4) the gross income amount received or expected to be received on each pay date. BEM 505.

The Department will use past income to prospect income for the future unless changes are expected. BEM 505. Specifically, the Department uses income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. BEM 505. But when processing a semi-annual contact, the 30-day period can begin up to 30 days before the day the DHS-1046, Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used. BEM 505.

The Department's computer system known as "Bridges" will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505. All income is converted to a standard monthly amount. BEM 505. The Department will convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505. If the client is paid every other week, the Department multiplies the average bi-weekly amount by **2.15**. BEM 505.

Here, Claimant requested a hearing because the Department reduced her monthly FAP amount from [redacted] to [redacted]. The Department contends that Claimant failed to properly report her monthly UCB payments which totaled [redacted] per month. According to the Department, when they included the UCB unearned income in the

budget, it resulted in the reduction. Claimant does not dispute the Department's calculations, but she contends that she did, in fact, report the UCB income timely and properly.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

For purposes of this hearing, the Administrative Law Judge does not need to determine whether Claimant timely reported the UCB or not, as the record shows that the Department properly budgeted Claimant's FAP allotment after becoming aware of the Claimant's UCB. The Department properly determined Claimant's monthly FAP allotment of [redacted].

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.

Supplemental Security Income (SSI) is a cash benefit for needy individuals who are aged (at least 65), blind or disabled. The Social Security Administration (SSA) determines SSI eligibility. In Michigan, DHS supplements federal SSI payments based on the client's living arrangement. Thus, in this item SSI recipient means a Michigan resident who receives the basic federal payment, the state supplement, or both. BEM 150.

When SSI benefits stop, central office evaluates the reason based on SSA's negative action code, then for SSI Closure, the MA-SSI is closed in Bridges if SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). Bridges sends the recipient an DHS-1605. BEM 150.

MA eligibility continues for an individual who:

- Has been terminated from SSI because he is no longer considered disabled or blind, and
- Has filed an appeal of the termination with SSA within SSA's 60-day time limit, and

- Is a Michigan resident.

Other eligibility factors such as income, assets and third party resource liability are not an issue. BEM 150.

MA eligibility continues until the person:

- Exhausts his SSA appeal rights, or
- Fails to file an appeal at any step within SSA's 60-day time limit, or
- Is no longer a Michigan resident. BEM 150.

When [the Department] runs EDBC, Bridges will determine whether the individual qualifies under other MA categories (BEM 105) when eligibility ends based on this policy. BEM 150.

Here, the Department contends that Claimant's SSI Medicaid was properly placed into closure based on the SOLQ which indicated payment code "N01." According to the Bridges SOLQ Report Job Aid, "NO1" means "Non-pay. Client's countable income exceeds the Title XVI payment amount and their State's payment standard." The Social Security Administration (SSA) terminated the SSI benefits and there is no record Claimant appealed the SSA's decision. However, Claimant submitted a new application for Medicaid and the Department has indicated that it has encountered problems with Bridges during the processing of her application. The Department has requested a remedy ticket to correct the error.

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 reduced Claimant's FAP and acted properly when it terminated Claimant's SSI Medicaid case. However, the Department did not act properly with regard to Claimant's pending Medicaid application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED-IN-PART** with respect to the FAP reduction and closure of SSI Medicaid and **REVERSED-IN-PART** with respect to Claimant's August 26, 2013 Medicaid application.

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 reprocessing of Claimant's August 26, 2013 Medicaid application.

2. Assign the highest priority to the pending ticket with regard to the processing of Claimant's August 26, 2013 Medicaid application.

IT IS SO ORDERED.

/s/_____

C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 18, 2013

Date Mailed: October 21, 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

CAP/aca

cc: [redacted]