

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14372
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Tuscola 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. After due notice, a telephone hearing was held on January 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Fiancé and Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUES

1. Did the Department properly close the Claimant's Food Assistance Program (FAP) and Medicaid cases due to excess income and non-cooperation with child support requirements?
2. Did the Department properly re-determine eligibility for the Medicaid cases once the child support sanction was lifted?

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 October 28, 2013, a review of the Claimant's FAP and Medicaid cases was completed.
2. On October 28, 2013, a Notice of Case Action was issued to the Claimant stating effective November 1, 2013, the FAP case would close, the Claimant's daughter's Medicaid case would have a deductible of \$ [REDACTED] and the Claimant's Medicaid case would close due to a failure to comply with child support requirements and excess income.

3. On November 6, 2013, the Claimant filed a request for hearing contesting the Department's actions.
4. The child support sanction was lifted from the Claimant's case.

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, parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. Cooperation is a condition of eligibility for FAP and Medicaid. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255.

In this case, the Eligibility Specialist testified that non-cooperation with child support requirements was an issue at the time the October 28, 2013 Notice of Case Action was issued, but this has been resolved and cooperation with child support requirements is no longer an issue. However, the Notice of Case Action also indicated a secondary basis for all of the FAP and Medicaid actions due to income.

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

Michigan has set guidelines for income which determine if an MA group meets the financial eligibility requirements. In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The

income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105 p 1 (7-1-2013).

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 166 p. 2 (7-1-2013). The protected income limit (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA PILs based on shelter area and fiscal group size. BEM 544 p. 1 (7-1-2013).

The Eligibility Specialist testified that the October 2013 review for FAP and Medicaid was turned in on October 28, 2013 and an interview was completed. While no income was previously budgeted, a SOLQ report showed unearned income of Social Security Administration (SSA) issued RSDI benefits. The Eligibility Specialist testified that the only income budgeted was the SSA benefits.

The group's current income was properly considered when determining FAP and Medicaid eligibility at the time of the review. However, the Department has not submitted the FAP and MA budgets to review the eligibility determinations based on income. Any group members that had been disqualified based on the child support sanctions should have been reinstated back into the group if this issue was resolved. Changes in group size may then affect the income limits and standards used for determining FAP and Medicaid eligibility. While it appears the Department was expecting the Claimant's Authorized Hearing Representative to withdraw the request for hearing, this did not occur. The Claimant's Authorized Hearing Representative indicated she was still trying to understand the Department's actions. The Department has not provided sufficient evidence to review the FAP and Medicaid case actions. Accordingly, the Department's determinations cannot be upheld.

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 made eligibility determinations for the Claimant's FAP and Medicaid cases.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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. Re-instate the Claimant's FAP and Medicaid cases retroactive to the November 1, 2013 effective date and re-determine eligibility in accordance with Department policy.
2. Issue the Claimant any supplement he may thereafter be due.
3. Issue the Claimant written notice(s) of any case action(s) in accordance with Department policy.



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

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

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:

201414372/CL

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

CL/hj

cc:

