

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

IN THE MATTER OF:



Reg. No.: 2014-13751
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: February 3, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independent Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's two children's Medical Assistance (MA) coverage under the Other Healthy Kids (OHK) program effective December 1, 2013, ongoing, due to excess income?

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's two children were ongoing recipients of the OHK program.
2. On September 30, 2013, Claimant submitted a redetermination, which included Claimant's husband pay stubs. See Exhibit 1.
3. On October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her two children's OHK benefits would close effective December 1, 2013, ongoing, due to the countable income being higher than the maximum amount allowed for this program. See Exhibit 1.

4. On November 12, 2013, Claimant filed a hearing request, protesting the MA closure. See Exhibit 1.

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 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.

As a preliminary matter, Claimant testified that she is only disputing the case closure of her children's OHK benefits due to excess income.

Other Healthy Kids (OHK) is a FIP-related Group 1 MA category. BEM 131 (July 2013), p. 1. MA is available to a person who is under age 19 when net income does not exceed 150% of the poverty level. BEM 131, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 131, p. 1. However, only certain eligibility factors apply before redetermination. BEM 131, p. 1. The Department applies MA policies in BEM 500, 531, and 536 to determine net income. BEM 131, p. 2. The income limit for a group size of three in the 150% poverty level is \$2,441. RFT 246 (April 2013), p. 1.

It should be noted that Claimant's household size includes herself, husband, and two children (total of four). However, in determining the number in the OHK fiscal group, the Department will apply a total of three rather than four.

The Department uses the fiscal group policies for FIP-related groups in BEM 211. BEM 131, p. 2. The Department determines the fiscal group for each person who is requesting MA. BEM 211 (July 2013), p. 5. The fiscal group must be determined separately for each person. BEM 211, p. 5.

In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parent(s) if the client is a child. BEM 211, p. 5. This means a parent's income is considered in determining his/her child's eligibility. BEM 211, p. 5.

A child's fiscal group is the child, and the child's parents. BEM 211, pp. 5-6.

Based on the above information, the Department properly applied a fiscal group of three. Technically, there would be two different budgets for each child because each child received OHK. Each of the child's group would include the child, Claimant, and the father, which results in a total fiscal group size of three. See BEM 211, pp. 5-6.

Next, BEM 530 is used to determine Claimant's MA income budgeting. See BEM 530 (July 2013), pp. 1-5. First, each of the Claimant's children receives \$281 in Retirement, Survivors, and Disability Insurance (RSDI) income. See SOLQ, Exhibit 1. Also, the Claimant receives \$1,124 in RSDI income. See SOLQ, Exhibit 1. Based on the above information, the Department properly included the above RSDI incomes in the MA budgets. See BEM 503 (July 2013), p. 28.

Also, on September 30, 2013, Claimant submitted a redetermination, which included Claimant's husband pay stubs. See Exhibit 1. The Department calculated Claimant's husband MA income to be \$2,394. See Exhibit 1. The Department used the husband's pay stubs from September 2013 as follows: (i) pay date of 9/12/13, \$1,422.84 gross pay, biweekly pay, and \$13.36 per hour; and (ii) pay date of 9/26/13, \$971.27 gross pay, biweekly pay, and \$13.36 per hour. See Exhibit 1. It should be noted that both pay stubs included overtime and the Department included the overtime pay in the calculation because it was more than a one-time occurrence. The Department then converted the biweekly pay when it multiplied it by two, which resulted in the \$2,394 amount. See BEM 530 (July 2013), p. 3.

Claimant disagreed with the calculation. Claimant testified that the Department should not have included the overtime pay. Claimant testified that the overtime depends on the business demand. Claimant testified her husband does earn \$13.36 hourly and works 40 hour a week.

The Department does not budget an extra check for future month calculations (example, fifth check for person paid weekly). BEM 530, p. 4. When the amount of income from a source changes from month to month, the Department estimates the amount that will be received/available in the future month. BEM 530, p. 3. Prospecting income means arriving at a best estimate of the person's income. BEM 530, p. 4. Prospect income when the Department is estimating income to be received in a processing or future month. BEM 530, p. 4.

Based on the foregoing information and evidence, the Department properly budgeted Claimant's husband income. Claimant submitted the paystubs to the Department, which each paystub included overtime hours. It should also be noted that Claimant submitted a third paystub that the Department did not include and that additional paystub also had overtime hours. It is reasonable to conclude that the Department properly included the overtime hours based on the paystubs that Claimant submitted at the time of redetermination. BEM 530, pp. 1-5.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (July 2013), p. 1. A fiscal group is established for each

person requesting MA (see BEM 211) and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536, p. 1. There are approximately 16 steps to determine a fiscal group member's income. This means a budgetable income is determine for each fiscal group member and the Department will prorate a person's income for each fiscal group member. BEM 536, pp. 1-2. In this case, a budgetable income needs to be determined for each child, Claimant, and the father. Therefore, each budget will have three prorated incomes for the fiscal group (child's prorated income, father's prorated income, and mother's prorated income).

At the hearing, the Department presented a FIP budget for December 2013. See Exhibit 1. Due to the fact that each child receives the same RSDI income, the budget is a proper representation for both children.

First, it is found that the Department properly calculated the child's prorated income amount of \$95. See Exhibit 1. A review of BEM 536 determined that the Department properly calculated this amount based on each of the child's unearned income and the prorated income. It should be noted that it appears that Department used each of the child's RSDI income amount of \$276 rather than \$281 in the calculation. See SOLQ, Exhibit 1. However, this is harmless error by the Department as it budgeted a lesser amount and it still concluded Claimant had exceeded the income levels.

Second, it is found that the Department properly calculated the mother's prorated income amount of \$187. See Exhibit 1. A review of BEM 536 determined that the Department properly calculated this amount based on the Claimant's unearned income and the prorated income. It should be noted that it appears that Department used Claimant's RSDI income amount of \$1,105 rather than \$1,124 in the calculation. See SOLQ, Exhibit 1. However, this is harmless error by the Department as it budgeted a lesser amount and it still concluded Claimant had exceeded the income levels.

Third, it is found that the Department properly calculated the father's prorated income amount of \$372. See Exhibit 1. A review of BEM 536 determined that the Department properly calculated this amount based on the Claimant's earned income and prorated income. However, it was discovered during the hearing that Claimant's husband had court ordered child support totaling \$190 for two children each month. Step 9 of BEM 536 states that the Department is to deduct court-ordered support paid by a fiscal group member to a child who does not live with the fiscal group. BEM 536, p. 3. A review of the calculations appears that the budget did not include or was miscalculated based on this step. However, again, it is harmless error by the Department because Claimant was found to be more than \$500 in excess of the income limit. Even if the Department deducted the \$190 in child support payments, the father's prorated income would still result in the income exceeding the limits. Therefore, the Department properly calculated the father's prorated income.

Finally, a child's fiscal group's net income is the total of the following amounts:

- The child's net income if the child has no dependents or 2.9 prorated shares of the child's own income if the child has dependents (child's "Step 13" times 2.9), plus
- For each parent in the fiscal group, 3.9 prorated shares of the parent's own income (each parent's "Step 13" times 3.9), plus
Note: This is the child's and parent's share of the parent's income.
- One prorated share of each of the parent's own income (each parent's "Step 13") when:
 - Both of the child's parents are in the child's fiscal group, and
 - The parents are married to each other.Note: This is the couple's share of each other's income.

BEM 536, p. 6.

Applying the above policy, the Department takes the child's net income if the child has no dependents, which would be \$276 (child's RSDI income). See Exhibit 1 and SOLQ. Then, for each parent in the fiscal group, the prorated income is multiplied by 3.9. Thus, the father's and child's share of father's income is \$1,450 (3.9 times \$372). BEM 536, pp. 5-6 and Exhibit 1. The mother's and child's share of mother's income is \$729 (3.9 times \$187). BEM 536, pp. 5-6 and Exhibit 1. Finally, the Department will add one prorated share of each of the parent's own income, which results in a couple's share of each other income amount of \$559 (\$372 father's prorated income plus \$187 mother's prorated income). BEM 536, pp. 5-6 and Exhibit 1.


In summary, when the following amounts are added together, this results in a total net income for each child being \$3,014 (\$276 child's share plus \$1,450 father's and child's share plus \$729 mother's and child's share plus \$559 couple's share). BEM 536, pp. 5-6 and Exhibit 1.

As stated previously, income eligibility exists for a person requesting MA when the net income of the person's fiscal group does not exceed the appropriate poverty level in RFT 246. BEM 536, p. 7. The income limit for a group size of three in the 150% poverty level is \$2,441. RFT 246, p. 1. The net income of \$3,014 exceeds the \$2,441 income limit for a group size of three in the 150% poverty level. RFT 246, p. 1. Thus, the Department properly closed Claimant's children's OHK benefits effective December 1, 2013, ongoing, due to excess income. BEM 131, pp. 1-3; BEM 536, p. 7; and RFT 246, p. 1.

DECISION AND ORDER

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 properly closed Claimant's children OHK benefits effective December 1, 2013, ongoing.

Accordingly, the Department's MA - OHK decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 18, 2014

Date Mailed: February 18, 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:

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

EJF/tlf

cc:

