

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

IN THE MATTER OF:



Reg. No.: 201425028
Issue No.: 2001; 3001
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (57)

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 February 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

Did the Department properly close Claimant's children's 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 benefits, and his children were ongoing recipients of MA coverage under the Other Healthy Kids (OHK) program.
2. On January 21, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP case would close effective March 1, 2014 because his net income exceeded the limit under the program.
3. On January 27, 2014, Claimant filed a request for hearing concerning FAP, MA and the Family Independence Program (FIP).

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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, in his November 27, 2014, hearing request, Claimant requested a hearing concerning FIP, FAP and MA. At the hearing, Claimant testified that he understood the Department's actions concerning his FIP eligibility and he wished to withdraw his hearing request concerning that matter. The Department agreed to the withdrawal. Accordingly, Claimant hearing request concerning the FIP matter is dismissed. The hearing proceeded to address the FAP and MA matters.

FAP Closure

The January 21, 2014 Notice of Case Action notified Claimant that his FAP case would close because his net income exceeded the applicable net income limit. Claimant acknowledged that he had three members in his household: him and his two children. The net income limit for a three member FAP group is \$1628. RFT 250 (December 2013), p. 1.

Because the Department did not provide a net income budget with its hearing packet, the budget information in the Notice of Case Action was reviewed with Claimant. The Notice showed that the Department considered Claimant's total unearned income of \$2161. The Department testified that this calculation was based on Claimant's gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$935.90 and his gross biweekly unemployment compensation benefits (UCB) of \$570.

The Department is required to consider gross RSDI and UCB income in calculating unearned income, multiplying any biweekly income by 2.15. BEM 505 (July 2013), pp. 7-8; BEM 503 (January 2014), pp. 28, 34. However, the Department must exclude any amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment. BEM 500 (January 2014), p. 5.

In this case, Claimant testified that a portion of his RSDI income was withheld by the Social Security Administration to recover a previous overpayment to him. Claimant's Single Online Query (SOLQ) report supports Claimant's testimony. The SOLQ shows that Claimant receives net RSDI income of \$649 from the gross payment of \$935.90. After Claimant's Part B Medicare premium of \$104.90 and his monthly child support expense of \$157 is deducted from his RSDI income, there is still an unaccounted \$25 deficit in the net Claimant receives as his RSDI income, which is consistent with Claimant's testimony that SSA deducted overissued benefits from his current benefits. Therefore, the Department did not act in accordance with Department policy when it considered the \$25 deducted by SSA from Claimant's RSDI benefits in calculating Claimant's gross RSDI income.

Based on the evidence presented, Claimant was eligible for the following deductions to his gross income:

- a standard deduction of \$151 based on his three-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account Claimant's monthly housing expenses of \$250, which Claimant verified on the record, and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size (RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Both Claimant and the Department agreed that Claimant had monthly \$157 child support expenses and no day care expense. The Department testified that Claimant had not presented any verified medical expenses. However, the SOLQ shows that Claimant had monthly Part B Medicare premiums of \$104.90, an allowable medical expense. BEM 554 (February 2014), p. 10. The Department had access to this information. BEM 554, p. 12. Therefore, Claimant was eligible for a medical expense deduction of \$70 (his \$104.90 premium less the \$35 threshold). Because the Department did not consider this medical expense deduction, it did not act in accordance with Department policy.

Because the Department did not properly consider Claimant's gross RSDI income and his medical expense deduction in calculating his net income eligibility for FAP, the Department did not act in accordance with Department policy when it closed Claimant's FAP case for excess income.

MA Closure

Claimant also requested a hearing concerning MA. The Department testified that Claimant's two children received MA coverage under the OHK but the children's cases were closed because Claimant's income exceeded the applicable income limit. The Department did not provide any relevant Notice of Case Action closing the MA cases or other documentary evidence supporting its position.

Coverage under the OHK program was available through December 31, 2013, for individuals under age 19 who meet the net income limit. BEM 131 (July 2013), p. 1. A recipient continues to be eligible for OHK until the next redetermination (except for certain situations, none of them involving increased income). BAM 210 (October 2013), p. 8. Effective January 1, 2014, a child's MA eligibility is based on the Modified Adjusted Gross Income (MAGI) methodology.

Because the Department failed to establish when the children's cases were closed and present documentation supporting the closure, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's children's MA cases.

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 closed Claimant's FAP case and his children's MA cases.

DECISION AND ORDER

Because Claimant withdrew his January 27, 2014 hearing request concerning FIP, the FIP matter is DISMISSED.

The Department's FAP and MA decisions are 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. Reinstate Claimant's FAP case effective March 1, 2014;
2. Reprocess Claimant's FAP eligibility;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from March 1, 2104, ongoing;
4. Reinstate Claimant's children's MA cases from the date of closure;
5. Reprocess the children's MA eligibility;

6. Provide the children with MA coverage they are eligible to receive from the date of reinstatement ongoing.



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

Date Signed: March 10, 2014

Date Mailed: March 10, 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

ACE/tlf

cc:

