

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 14-002487
Issue No.: 2007; 3008
Case No.: ██████████
Hearing Date: June 19, 2014
County: OAKLAND-DISTRICT (2)

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 June 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Supervisor; and ██████████, Assistant Payment Worker.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$111 effective May 1, 2014?

Did the Department properly supplement Claimant for his Medicare Savings Program (MSP) benefits effective February 1, 2014, ongoing?

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 is an ongoing recipient of FAP and MSP benefits. See Exhibit 1, pp. 5-6.
2. On March 18, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MSP - Specified Low-Income Medicare Beneficiaries (SLMB) benefits for February 2014. See Exhibit 2, pp. 1-2.
3. On March 18, 2014, the Notice of Case Action also notified Claimant that he was approved for MSP - Qualified Medicare Beneficiaries (QMB) effective March 1, 2014, ongoing. See Exhibit 2, pp. 1-2.

4. On March 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$447 effective April 1, 2014, ongoing. See Exhibit 2, p. 3.
5. On March 31, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (DHS-1606) notifying him that he was not eligible for MSP benefits effective May 1, 2014, ongoing. See Exhibit 2, p. 4.
6. For May 2014, Claimant's FAP group size reduced to two and he received \$111 in benefits for that month. See Exhibit 1, p. 6.
7. On May 9, 2014, Claimant filed a hearing request, protesting his FAP allotment/closure and MSP/Medical Assistance (MA) benefits. See Exhibit 1, pp. 2-4.
8. On May 14, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (DHS-1606) notifying him that he was eligible for MSP benefits effective May 1, 2014, ongoing. See Exhibit 2, pp. 5-7.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

During the hearing, Claimant also disputed that his health plan coverage had changed. However, this hearing lacks the jurisdiction to address Claimant's dispute with his type

of health coverage plan. See BAM 600 (March 2014), pp. 4-6 and 12-13. As such, this hearing will not address Claimant's dispute as to his health plan coverages.

MSP benefits

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (January 2014), p. 1. Medicaid is also known as Medical Assistance ("MA"). BEM 105, p. 1.

The Medicare Savings Programs are SSI-related MA Categories. BEM 165 (October 2013), p. 1. The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB and SLMB); and Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165, p. 1.

Eligibility under the QMB exists when the net income does not exceed 100% of poverty. BEM 165, p. 1. SLMB program exists when the net income is over 100% of poverty, but not over 120% of poverty. BEM 165, p. 1. ALMB program exists when the net income is over 120% of poverty, but not over 135% of poverty. BEM 165, p. 1. A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. BEM 165, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 165, p. 1. Full coverage QMB pays for Medicare premiums, co-insurances, and deductibles; limited QMB/SLMB pays Medicare Part B premiums; and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. The Department of Community Health determines whether funding is available. BEM 165, p. 2.

In this case, Claimant is an ongoing recipient of MSP benefits. See Exhibit 1, pp. 5-6. On March 18, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for MSP - SLMB benefits for February 2014. See Exhibit 2, pp. 1-2. On March 18, 2014, the Notice of Case Action also notified Claimant that he was approved for MSP - QMB effective March 1, 2014, ongoing. See Exhibit 2, pp. 1-2.

Additionally, on March 31, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (DHS-1606) notifying him that he was not eligible for MSP benefits effective May 1, 2014, ongoing. See Exhibit 2, p. 4. On May 9, 2014, Claimant filed a hearing request, protesting his MSP/MA benefits. See Exhibit 1, pp. 2-4. Subsequent to Claimant's hearing request, on May 14, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (DHS-1606) notifying him that he was eligible for MSP benefits effective May 1, 2014, ongoing. See Exhibit 2, pp. 5-7. During the hearing, the Department presented an Eligibility Summary, which indicated no lapse of coverage of Claimant's MSP benefits. See Exhibit 1, p. 5.

Ultimately, Claimant sought to be reimbursed for his MSP benefits from on or around February 2014, ongoing. Based on Claimant's testimony, it appeared that he paid for

his own Medicare premiums even though he was approved for such coverage. The Department acknowledged that Claimant should be reimbursed for his MSP benefits and that it is currently pending.

Based on the foregoing information and evidence, the Department failed to supplement Claimant for any MSP benefits that he was eligible to receive but did not from February 1, 2014, ongoing. Both parties acknowledge that Claimant had no lapse of MSP coverage (see Eligibility Summary, Exhibit 1, p. 5) and that supplements should be issued. The evidence presented that Claimant was eligible and approved for MSP benefits from February 1, 2014, ongoing. As such, the Department will issue supplements to Claimant for any MSP benefits he was eligible to receive but did not from February 1, 2014, ongoing. See Exhibit 1, p. 5 and See Exhibit 2, p. 1.

FAP benefits

Claimant is an ongoing recipient of FAP benefits. See Exhibit 1, pp. 5-6. On March 19, 2014, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$447 effective April 1, 2014, ongoing. See Exhibit 2, p. 3. For May 2014, Claimant's FAP group size reduced to two and he received \$111 in benefits for that month. See Exhibit 1, p. 6. On May 9, 2014, Claimant filed a hearing request, protesting his FAP allotment/closure. See Exhibit 1, pp. 2-4.

First, Claimant testified that his FAP benefits were closed due to failure to submit documentation. Nevertheless, the Eligibility Summary indicated that Claimant had no lapse of FAP coverage. See Exhibit 1, p. 6. Second, Claimant testified about a previous hearing held to address his FAP benefits concerning the Office of Child Support (OCS) (see Registration #2014-28108). However, Claimant testified that he did not dispute the previous hearing held and/or the decision rendered by the ALJ. Ultimately, Claimant disputed the amount of his FAP allotment for May 2014, ongoing. Claimant did not dispute the amount of his FAP benefits before the benefit period of May 2014. However, the evidence packet failed to include a FAP budget in order to determine if the Department properly calculated his May 2014 benefits.

The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. Both the local office and the client or Authorized Hearing Representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for May 2014, ongoing. BAM 600, pp. 36-39. The evidence

packet failed to include a FAP budget in order to determine if the Department properly calculated his May 2014 benefits. As such, the hearing was unable to determine if Claimant's FAP allotment for May 2013 was proper in accordance with Department policy. The Department will recalculate Claimant's FAP benefits effective May 1, 2014, in accordance with Department policy.


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 (i) did not act in accordance with Department policy when it failed to supplement Claimant for any MSP benefits that he was eligible to receive but did not from February 1, 2014, ongoing; and (ii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for May 2014, ongoing.

Accordingly, the Department's FAP and MSP/MA 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. Issue supplements to Claimant for any MSP benefits he was eligible to receive but did not from February 1, 2014, ongoing;
2. Begin recalculating the FAP budget for May 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from May 1, 2014, ongoing; and
4. Notify Claimant in writing of its MSP/MA and FAP decision in accordance with Department policy.


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

Date Signed: **6/24/2014**

Date Mailed: **6/24/2014**

EJF/cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]