

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

IN THE MATTER OF:

[REDACTED] L
[REDACTED]

Reg. No.: 14-003028
Issue No.: 2001; 3001
Case No.: [REDACTED]
Hearing Date: June 26, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on June 26, 2014, from Redford, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

ISSUES

The first issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility, effective [REDACTED].

The second issue is whether DHS properly terminated Claimant's Medical Assistance (MA) eligibility, effective [REDACTED].

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 FAP benefit recipient.
2. Claimant was an ongoing Healthy Michigan Plan (HMP) recipient.
3. Claimant reported and verified an ongoing \$500/month land contract obligation.
4. Claimant was a household member with her spouse.

5. Claimant was a full-time college student.
6. On [REDACTED] DHS determined Claimant's FAP eligibility, in part, based on a group size of one person and a housing obligation of \$500 (see Exhibits A4-A6).
7. On [REDACTED], DHS terminated Claimant's MA eligibility, by determining that Claimant was neither under 21, pregnant, a caretaker to a minor child, over 65 years old, blind, or disabled.
8. On [REDACTED], Claimant requested a hearing to dispute FAP eligibility from [REDACTED], an MA termination from [REDACTED], and an unspecified State Emergency Relief (SER) issue.
9. Claimant testified that DHS satisfactorily resolved her SER dispute.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant testified that she requested a hearing to dispute the amount of her FAP eligibility since 4/2014. FAP benefit determinations factor the following: income, standard deduction, housing expenses, utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. During the hearing, a budget summary (Exhibit A5) was discussed. Claimant testified that she disputed 2 budget factors, group size and housing expenses.

DHS factored Claimant's FAP eligibility based on a group size of one person. DHS presented testimony that the group size included Claimant spouse, but that Claimant was excluded because she was a full-time student.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (7/2013), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or

- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.*, p. 3.

Claimant conceded that she was a full-time college student since [REDACTED]. It must then be determined whether Claimant meets an exception to student status.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. workstudy).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent. *Id.*, pp. 3-5.

The person remains in student status while attending classes regularly. *Id.*, p. 5. Student status continues during official school vacations and periods of extended illness. *Id.* Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). *Id.*

Claimant noted that her spouse receives Supplemental Security Income (SSI) benefits. A spouse's receipt of SSI benefits is not an exception to student status. Claimant failed to assert that she meets any other student status exception. It is found that DHS

properly excluded Claimant from the FAP benefit determination due to her student status.

Claimant also disputed the DHS failure to factor \$500/month in housing expenses. Claimant failed to bring verification of the expense to the hearing. Despite Claimant's failure, there was evidence to suggest that DHS should have budgeted the expense.

DHS conceded that a \$500 housing expense was factored in FAP budgets before [REDACTED]. Claimant credibly testified that she lived at her current residence for several years. If DHS budgeted Claimant's housing expense, it is presumed that Claimant provided DHS with verification of the expense.

It was not disputed that DHS redetermined Claimant's FAP eligibility beginning [REDACTED]. Presumably, DHS removed Claimant's housing expense because Claimant failed to resubmit proof of her housing expense.

DHS is to verify shelter expenses at application and when a change is reported. BEM 554 (2/2014), p. 14. "At redetermination" is a notable omission for when DHS is to require verification.

Based on DHS policy, DHS had no need to re-verify Claimant's unchanged housing expenses. Thus, the DHS removal of Claimant's housing expense is found to be improper.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a termination of MA eligibility, effective 6/2014. A Health Care Coverage Determination Notice (Exhibits A1-A3) noted that the basis of termination was that Claimant was neither under 21 years, pregnant, a caretaker to a minor child, over 65 years of age, blind or disabled.

DHS recently made sweeping changes to MA eligibility. Before [REDACTED], clients qualified for Medicaid by meeting certain categories (e.g. pregnancy, caretaker status, disability...). DHS offered Adult Medical Program (AMP) benefits to persons not meeting any Medicaid categories. AMP was an inferior MA program which did not cover hospitalizations and other medical expenses which were covered by Medicaid. The program was also not regularly offered to applicants. AMP was an income-based only program.

As of [REDACTED], DHS vanquished AMP and offered HMP. HMP offers comparable benefits to Medicaid and is offered to all applicants in the foreseeable future. Like AMP, HMP does not require that applicants meet special categories (such as pregnancy, disability....) Unfortunately, DHS policy does not reflect these changes that are well known to DHS personnel. The only known reference to HMP in DHS policy as of [REDACTED] is found in their policy bulletins.

BEM 640, Adult Medical Program (AMP) has been deleted as the program beneficiaries have been converted to the Healthy Michigan Plan. BPB 2014-007, p. 1. AMP no longer exists. *Id.*

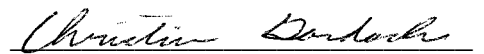
During the hearing, DHS conceded that Claimant does not have to meet any of the categories that DHS formerly required for Medicaid eligibility. DHS also conceded there was no known valid reason to terminate Claimant's HMP eligibility. The DHS concessions are consistent with the facts and DHS policies. It is found that improperly terminated Claimant's HMP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP and MA eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective [REDACTED], subject to the finding that DHS improperly removed Claimant's \$500/month housing expense;
- (2) redetermine Claimant's HMP eligibility, effective [REDACTED] subject to the finding that DHS failed to provide a legitimate basis for terminating Claimant's eligibility; and
- (3) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/7/2014

Date Mailed: 7/7/2014

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:

