

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011508
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: October 23, 2014
County: Luce

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 October 23, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine the Claimant's eligibility for Medical Assistance (MA)?

Did the Department properly determine the Claimant's Food Assistance Program (FAP) group composition?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] and has received this income on a monthly basis May 1, 2014.
2. On September 2, 2014, the Department received the Claimant's request for a hearing.

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.

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. Medicaid is also known as Medical Assistance (MA). BEM 105.

The Claimant receives Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED]. When this amount is reduced by the unearned income general exclusion of \$20, her net income of \$[REDACTED] exceeds the limit to receive Medical Assistance (MA) under the AD-Care category.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- There is no excess income, or
- Allowable medical expenses equal or exceed the excess income. BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Program Reference Table (RFT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

A review of claimant's case reveals that the Department budgeted correct amount of income received by the Claimant. Claimant's "protected income level" is \$[REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge. The Department applied ongoing medical expenses in the amount of \$[REDACTED] toward the Claimant's deductible. The results is that the Claimant is eligible for Medical Assistance (MA) with no remaining deductible.

The Claimant argued that the Department failed to determine her Medical Assistance (MA) group properly or apply her medical expenses properly. This Administrative Law Judge finds that the Department has approved the Claimant for Medical Assistance (MA) and has submitted substantial evidence that the Claimant's Medical Assistance (MA) benefits have been properly determined. The Claimant failed to identify bills that were not applied to her full coverage Medical Assistance (MA) after ongoing expenses were considered.

The Claimant argued that the Department failed to properly determine her Food Assistance Program (FAP) benefit group size and composition.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (February 1, 2014), p 1.

This Administrative Law Judge finds that the Department properly determined that the Claimant and her child under the age of 22 years must be placed in the same Food Assistance Program (FAP) group regardless of whether they purchase or prepare food together. For the same reason, the Claimant's grandchild must be placed in the same group as her child.

Changes to the Claimant's group composition occurring after September 2, 2014, are not relevant to his hearing decision.

The Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

The Claimant argued that the Department improperly applied the 2014 Cost of Living Allowance (COLA) towards her unearned income in her Retirement, Survivors, and Disability Insurance (RSDI) benefits. The Claimant's request for a hearing was received on September 2, 2014. The Claimant failed to establish that the Department sent her notice of an eligibility determination involving the excluded COLA benefits or that was not addressed by a previous hearing request.

The Claimant argued that the Department improperly failed to reimburse her for travel expenses authorized by BAM 825. The Claimant testified that the Department failed to reimburse her travel expenses for April of 2014, and July through October of 2013. This Administrative Law Judge finds that the Claimant's September 2, 2014, request for a hearing is not a timely hearing request with respect to the travel expenses for which the Claimant may not have been reimbursed.

The Claimant testified that she believes that Department employees have discriminated against her on the basis of her age.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the Department personnel director. MAC R 400.903.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

Therefore, the Claimant's grievances with respect to discrimination do not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS).

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 determined the Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits.

DECISION AND ORDER

Accordingly, the Department's determinations are **AFFIRMED**. All issues raised by the Claimant that do not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS) are **DISMISSED**.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/31/2014**

Date Mailed: **10/31/2014**

KS/las

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:

