

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

IN THE MATTER OF:



Reg. No.: 14-004061
Issue No.: 2001; 3000; 5001
Case No.: [REDACTED]
Hearing Date: JULY 21, 2014
County: WAYNE-DISTRICT 31

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 July 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's May 28, 2014 application for State Emergency Relief (SER) assistance?

Did the Department properly close Claimant's Medical Assistance (MA) case?

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 received MA benefits based on a May 2, 2014 finding by the Medical Review Team (MRT) that she was disabled.
2. On May 27, 2014, Claimant's employer completed a Verification of Employment showing that she was reengaged in employment and would receive weekly pay at a rate of [REDACTED] per hour, [REDACTED] per week.
3. Claimant informed the Department that she expected to receive her first paycheck on [REDACTED].

4. On May 28, 2014, Claimant submitted a SER application requesting assistance with prevention of rent eviction.
5. Claimant's monthly rent is \$750.
6. On May 29, 2014, the Department sent Claimant (i) a SER Decision Notice denying the SER application and (ii) a Health Care Coverage Determination Notice (HCC Notice) notifying her that effective July 1, 2014, her MA case would close. .
7. On June 2, 2014, Claimant requested a hearing disputing the Department's actions concerning her MA case, SER application and Food Assistance Program (FAP) case.

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).

On June 2, 2014, Claimant requested a hearing disputing the Department's closure of her MA case, the calculation of her FAP benefits, and the denial of her SER application. At the hearing, Claimant testified that she understood the Department's actions concerning her FAP case and did not wish a hearing with respect to her FAP case. Accordingly, Claimant's hearing request concerning her FAP benefit calculation is dismissed. The hearing proceeded to address Claimant's concerns regarding her SER application denial and MA case closure.

SER Application Denial

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Claimant requested SER assistance on May 28, 2014 to prevent eviction. The Department initially denied Claimant's application in a May 29, 2014 SER decision because it found the housing unaffordable. After Claimant requested a hearing, the Department reprocessed the application and denied the application once again in a June 16, 2014 SER Decision Notice, this time on the basis that the total amount of income/asset copayment and the shortfall (unmet required payments) was equal to or greater than the amount needed to resolve the emergency. At the hearing, the Department clarified that Claimant's housing was not unaffordable but that the Department properly denied Claimant's SER application on the grounds specified in the June 16, 2014 SER Decision Notice.

The Department contended that it properly denied the SER application because the sum of the \$750 shortfall and the \$870 income copay that applied in Claimant's case exceeded \$1500 necessary to resolve the emergency.

In processing an application for SER assistance with rent arrearage, the Department must verify a client's shelter expenses for the six months preceding the client's application. ERM 303 (October 2013), p. 4. If the client has not made required payments, which are actual shelter costs, **and** has no good cause for the nonpayment, the client must pay the shortfall. ERM 303, p. 4; ERM 204 (March 2013), p. 1; ERM 208 (October 2013), p. 4. Good cause for a failure to prevent a housing emergency exists if either of the following conditions are met: (i) the SER group's net countable income from all sources during each month the group failed to pay its obligations was less than the amount shown for the SER group size in the good cause table in ERM 204 (which was \$225 for Claimant's SER group of one), provided that the income was not reduced because of a disqualification of SSI or Department benefits for failure to comply with a program requirement; or (ii) the emergency resulted from unexpected expenses related to maintaining or securing employment, which expenses equal or exceed the monthly obligation. ERM 204, pp 1-2.

In this case, the Department testified that Claimant had unmet required payments for two months, April 2014 and May 2014, because she did not pay any of her rent those months. However, in her application, Claimant indicated that her only income for each of those two months was \$200, her monthly State Disability Assistance (SDA) payments. The Department did not present any evidence disputing Claimant's statement's concerning her income. Because Claimant had net income less than \$225 for each of the months she was unable to pay her shelter expenses, she established good cause for her nonpayment. Therefore, the Department did not act in accordance with Department policy when it concluded that she was obligated to pay a \$750 shortfall as a condition of approval of her SER application.

The Department also alleged that Claimant had an \$870 income copay. A SER group seeking assistance with non-energy SER services (which includes assistance with rent arrearage payment) must pay an income copayment if the group has **net** income that exceeds the SER income needs standard for non-energy services. ERM 208 (October 2013), p. 1; ERM 303. The amount of the income copayment is the difference between the group's total combined net monthly income and the SER income needs standard. For Claimant's group size of one, the SER income needs standard is \$445. ERM 208, p. 5. The Department may modify the income copayment under certain circumstances, such as if the provider demands payment in advance but the income is not available to the SER group until later in the budget period. ERM 208, pp. 2-3.

In determining a client's monthly income, the Department must consider the actual income the client expects to receive during the SER countable income period, which is the 30-day period beginning on the date the local office receives a signed application. To determine **net** earned income for SER purposes, the Department must deduct certain expenses of employment, which include mandatory withholding taxes (25% of

the gross), deductions required by the employer as a condition of employment and deductions for health insurance. ERM 206 (October 2013), p. 5.

In this case, the countable SER period in Claimant's case is May 28, 2014 to June 27, 2014. ERM 206 (October 2013), p. 1. During this period, Claimant expected to receive earned income from her employment, as well as \$200 in SDA payments. However, in calculating Claimant's anticipated net earned income, the Department did not consider any deductions. Therefore, the Department did not calculate Claimant's income copayment in accordance with Department policy.

Because the Department did not establish that it calculated Claimant's copayments and shortfall in accordance with Department policy, it failed to act in accordance with Department policy when it denied Claimant's SER application on the basis that her copay and shortfall exceeded the amount to resolve the emergency.

MA Case Closure

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 Department testified that Claimant's MA case closed because her income made her ineligible. The HCC Notice notified Claimant that her MA case would close because (i) she was not under 21, pregnant, the caretaker of a minor child, over 65, blind or disabled and (ii) her income of \$21,036 made her ineligible.

The Department established that Claimant received MA based on a disability, approved by MRT on May 2, 2014. BEM 105 (January 2014), p. 1. BEM 260 (July 2014), p. 7; BAM 815 (July 2014), pp. 7-8. A client who engages in substantial gainful activity is not eligible for disability-based MA. See BEM 260, pp 3-4. In this case, the Department testified that based on Claimant's verification of employment that showed that she was reengaged in employment, at a rate of \$13.50 for 30 hours weekly, Claimant had gross monthly income that resulted in substantial gainful employment. As a result, she was not disabled, and consequently not eligible for disability-based MA.

However, if a disabled client starts working and claims to still be disabled, the case must be referred to MRT to determine if the client is still disabled and a trial work period of three months applies, allowing the disabled client an opportunity to test the ability to work without any work done during this trial work period to be used as evidence the person can engage in substantial gainful activity. BEM 260, p. 6.

In this case, the Department automatically relied on Claimant's income to determine that she was ineligible. Because MRT had found Claimant disabled on May 2, 2014, just a

month before she returned to work, it is not clear from the evidence presented that Claimant had claimed that she was no longer disabled. Therefore, the Department did not act in accordance with Department policy when it failed to refer Claimant's case back to MRT to determine whether she was eligible for a three-month trial work period.

The May 29, 2014 HCC Notice also indicated Claimant had annual income of \$21,036, which exceeded the \$15,521 annual limit for a household size of one. The Department testified that the income limit identified on the Notice applied for Healthy Michigan Program (HMP) eligibility. HMP provides health care coverage for individuals who:

- Are age 19-64 years
- Have income at or below 133% of the federal poverty level under the Modified Adjusted Gross Income (MAGI) methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

http://www.michigan.gov/mdch/0,4612,7-132-2943_66797-325160--,00.html; 42 CFR 435.218. For 2014, 133% of the federal poverty level is \$15,521.10. <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Downloads/2014-Federal-Poverty-level-charts.pdf>.

In this case, the Department failed to establish that Claimant's \$21,036 annual income figure was determined in accordance with the MAGI methodology. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant HMP eligibility.

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 did not act in accordance with Department policy when it denied Claimant's SER application and closed Claimant's MA case.

DECISION AND ORDER

Claimant's request for hearing concerning the calculation of FAP benefits is DISMISSED.

The Department's SER 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. Reregister and reprocess Claimant's May 28, 2014 SER application;

2. Issue supplements to Claimant's provider for any SER benefits Claimant was eligible to receive but did not;
3. Reinstate and reprocess Claimant's MA coverage as of July 1, 2014; and
4. Provide Claimant with MA coverage she is eligible to receive, if any, from July 1, 2014 ongoing; and
5. Notify Claimant in writing of its SER and MA decisions.



Alice C. Elkin

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

Date Signed: **7/24/2014**

Date Mailed: **7/28/2014**

ACE / ttf

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:

