

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-009774
Issue No.: 1000,2000,2002,3001
Case No.: [REDACTED]
Hearing Date: October 15,2014
County: Genesee-District 6

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 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

Did the Department properly sanction the Claimant's Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits due non-cooperation with the Office of Child Support?

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

Did the Department properly close Medical Assistance (MA) for the Claimant's younger child?

FINDINGS OF FACT

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

1. On May 24, 2013, the Claimant applied for Food Assistance Program (FAP), Medical Assistance (MA), and Family Independence Program (FIP) benefits.
2. On June 20, 2013, the Department notified the Claimant that it had denied her application for Family Independence Program (FIP) benefits.
3. On November 6, 2013, the Department determined that the Claimant was non-compliant with efforts by the Office of Child Support to identify the absent parent.
4. On November 8, 2013, the Department sanctioned her Food Assistance Program (FAP) benefits and reduced her Food Assistance Program (FAP) group size to one.

5. On December 17, 2013, the Department notified the Claimant that she was disqualified from receiving Medical Assistance (MA).
6. On April 4, 2014, the Department added the Claimant to another Food Assistance Program (FAP) group containing the Claimant's mother and the Claimant's older child.
7. On June 16, 2014, the Department sent the Claimant a Redetermination (DHS-1010) with a due date of July 1, 2014.
8. On July 19, 2014, the Department notified the Claimant that it would close Medical Assistance (MA) for her younger child for failing to return the Redetermination form.
9. On July 24, 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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 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.

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.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, 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.]

On June 20, 2013, the Department denied the Claimant's Family Independence Program (FIP) application for noncompliance with the Partnership. Accountability. Training. Hope. (PATH) program. On November 8, 2013, the Department disqualified the Claimant from the Food Assistance Program (FAP), and on December 17, 2013, the Department disqualified the Claimant from the Medical Assistance (MA) program for non-cooperation with the Office of Child Support. On July 24, 2014, the Department received the Claimant's request for a hearing.

This Administrative Law Judge finds that the Claimant's request for a hearing was not submitted to the Department in a timely manner so that a hearing could be granted by the Michigan Administrative Hearing System (MAHS) for the purposes of evaluating the denial of Family Independence Program (FIP) benefits, and sanctioning of Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Therefore, the Claimant's hearing request is dismissed with respect to these issues.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (April 1, 2014), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A

collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2014), pp 1-9.

On June 16, 2014, the Department sent the Claimant a Redetermination (DHS-1010) with a due date of July 1, 2014. On July 19, 2014, the Department notified the Claimant that it had closed Medical Assistance (MA) benefits for her younger child for failing to return the Redetermination form in a timely manner.

The Claimant failed to establish that she returned the Redetermination form or that she had re-applied for Medical Assistance (MA) for herself. This Administrative Law Judge finds that the Department was acting in accordance with policy when it closed Medical Assistance (MA) for the Claimant's younger child. Furthermore, there was no denial of Medical Assistance (MA) for the Claimant herself because there is no evidence that she re-applied for benefits since December 17, 2013.

Parents and their children under 22 years of age who live together must be in the same group regardless of whether the children have their own spouse or child who lives with the group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (October 20, 2014), p 1.

The Claimant's mother is the guardian of the Claimant's older child and they are members of a Food Assistance Program (FAP) benefit group that does not include the Claimant or the Claimant's younger child. On November 8, 2013, the Department sanctioned the Claimant's Food Assistance Program (FAP) benefits for non-cooperation with the Office of Child Support leaving her younger child in a FAP group of one. On April 1, 2014, the Claimant was found to have cooperated with the Office of Child Support. On April 4, 2014, the Claimant was added to the FAP group containing her mother and older child.

The Department's determination of benefit group composition on April 1, 2014, was made more than 90 days before the Claimant requested a hearing, but the Claimant has the right to a hearing to protest ongoing benefits since then.

As the parent of her younger child, Department policy supports placing the Claimant in that benefit group as a mandatory member. Policy also supports placing the Claimant in the benefit group of her older child as a mandatory member even though it is not mandatory that the Claimant, as a person over 22-years of age, be placed in the same group as her mother.

The Claimant is not the primary caretaker of her older child but is a mandatory member of the group containing her younger child, and this Administrative Law Judge finds that the Department was not acting in accordance with policy when it excluded the Claimant from her younger child's benefit group.

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 closed Medical Assistance (MA) benefits for the Claimant's younger child on July 19, 2014, for failure to return the Redetermination.

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 determined the Claimant's Food Assistance Program (FAP) benefit group size and composition as of April 25, 2014, or 90 days before Department received the Claimant's request for a hearing.

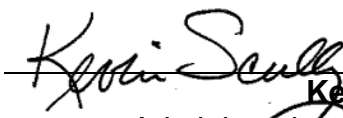
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that all other issues presented by the Claimant on the record at her administrative hearing do not fall within the jurisdiction of the Michigan Administrative Hearing System (MAHS) because her request for a hearing was not presented in a timely manner as described within this decision.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the July 19, 2014, closure of Medical Assistance (MA) and denial of Family Independence Program (FIP) benefits; and **REVERSED IN PART** with respect to the Food Assistance Program (FAP) as of April 25, 2014.

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. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of April 25, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



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

Date Signed: **10/21/2014**

Date Mailed: **10/21/2014**

KS/sw

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:

