

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-013371
Issue No.: 2007; 3008
Case No.: ██████████
Hearing Date: November 05, 2014
County: Wayne-District 57 (Conner)

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 November 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Medicare Savings Program (MSP) case?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for November 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 was an ongoing recipient of MSP and FAP benefits.
2. Claimant is disabled.
3. On July 1, 2014, the Department closed Claimant's MSP case.
4. In September 2014, Claimant notified the Department that her adult daughter ██████████ was moving out of her home.

5. On September 30, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were decreasing effective November 1, 2014 to \$278 for a household size of two consisting of [REDACTED] and [REDACTED].
6. On September 24, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her MSP and FAP cases.

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).

Claimant requested a hearing concerning the closure of her MSP case and the calculation of her FAP benefits.

MSP

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.

As a preliminary matter, it is noted that Claimant requested a hearing concerning her MSP case on September 24, 2014. The evidence at the hearing showed that Claimant's MSP case closed effective July 1, 2014. The Department contended that Claimant was notified of the closure of her MSP case in a June 6, 2014 Health Care Coverage Determination Notice. Generally, a request for hearing must be made within 90 days of the date a client is notified of a negative action. BAM 600 (July 2014), p. 6. However, while the Health Care Coverage Determination Notice advised Claimant that she is "not eligible" from July 1, 2014 because she is not under 21, pregnant, or a caretaker of a minor child in her home, not over 65, blind or disabled and indicates that it considered Claimant's annual income of \$9069, it does not advise her that her MSP case would be closing. A notice must advise the client of the action being taken by the Department and the reason for the action. BAM 220 (July 2014), p. 2. Because Claimant was not properly notified of the closure of her MSP case, Claimant's request for hearing concerning her MSP case is not untimely.

At the hearing, the Department acknowledged that Claimant was disabled and did not present any evidence supporting the closure of Claimant's MSP case. To the contrary, the Department acknowledged that it had erred in closing Claimant's MSP case and it

had issued ticket no. 129916 in an attempt to reinstate Claimant's case. Because the Department did not present any basis for the closure of Claimant's MSP case, the Department did not act in accordance with Department policy when it closed the case.

The evidence at the hearing established that Claimant's MSP case closed effective July 1, 2014. At the hearing, Claimant alleged that the Social Security Administration (SSA) had begun withholding \$104.90 for her Part B Medicare premiums from her social security benefits for July 2014 ongoing. Additionally, she alleged that SSA withheld a lump sum of about \$400 from her July 2014 benefits. Claimant was given the opportunity to present documentation from SSA explaining the reason for the \$400 lump sum recoupment to establish whether it was due to the Department's actions concerning her MSP case, but she failed to provide any such documentation. In the absence of any evidence supporting Claimant's position that her MSP case was closed for any period prior to July 1, 2014, the evidence establishes only that the Department improperly closed Claimant's MSP case from July 1, 2014 ongoing.

FAP

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.

Claimant's concern regarding her FAP case focused on whether her FAP benefits included the appropriate group members. Claimant admitted that she was disqualified from her FAP group due to an intentional program violation. As such, she was ineligible for FAP. BEM 212 (July 2014), p. 8. Until September 2014, Claimant lived with her two adult children [REDACTED] and [REDACTED] and her granddaughter [REDACTED]. She notified the Department in September 2014 that [REDACTED] had moved out. The Department presented an eligibility summary showing that Claimant received FAP benefits in October 2014 for a FAP group with three members and in November 2014 ongoing for a group size of two. The Department testified that the FAP group members in October 2014 were [REDACTED], [REDACTED] and [REDACTED]. The September 30, 2014 Notice of Case Action showed that for November 2014, ongoing the group consisted of [REDACTED] and [REDACTED]. The evidence also showed that, although, based on the household's net income, Claimant's group was eligible for \$357 in FAP benefits, the maximum available for a group size of two, there was \$79 withheld each month to repay an overissuance, bringing the amount actually issued to \$278. See RFT 260 (October 2014), p. 1; BAM 725 (July 2014), p. 5. Once explained to her, Claimant testified that she was satisfied with the Department's action.

Based on the evidence presented, the Department acted in accordance with Department policy with respect to the calculation of Claimant's FAP benefits for November 1, 2014 ongoing.

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 calculated Claimant's FAP benefits for November 1, 2014 ongoing but did not act in accordance with Department policy when it closed her MSP case effective July 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to calculation of her FAP benefits and REVERSED IN PART with respect to closure of her MSP case.

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. Reinstate Claimant's MSP case effective July 1, 2014;
2. Issue supplements to Claimant for MSP benefits she was eligible to receive but did not from July 1, 2014 ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/7/2014**

Date Mailed: **11/7/2014**

ACE / tlf

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]