

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018830
Issue No.: FAP, MA
Case No.: [REDACTED]
Hearing Date: January 28, 2015
County: GENESEE-DISTRICT 2

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 28, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED] Son. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUES

Is there a hearable issue regarding the Food Assistance Program (FAP)?

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

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's last application for FAP was denied December 13, 2013.
2. On August 13, 2014, Claimant applied for MA.
3. On August 14, 2014, a Verification Checklist was issued stating what verifications were requested with a due date of August 25, 2014.
4. On August 26, 2014, the Department received requested verifications.
5. On September 18, 2014, a Health Care Coverage Determination Notice was issued to Claimant for a denial/closure stating Claimant was over the income limit and requested verifications were not returned.

6. On December 16, 2014, Claimant filed a request for hearing contesting the Department's actions regarding FAP and MA.
7. On December 17, 2014, Claimant's MA application was reviewed and re-instated noting the verifications were only a day late.
8. On December 17, 2014, a Health Care Coverage Determination Notice was issued to Claimant stating the Medicare Savings Program was approved effective November 1, 2014, but denied for October 2014 due to income in excess of program limits.

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).

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (10-1-2014), p. 6, 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.]

In this case, the Department credibly testified Claimant last applied for FAP December 10, 2013, and that application was denied December 13, 2013. Claimant testified she did not think there was a more recent application for FAP.

Claimant's hearing request was not timely filed within ninety days of the December 13, 2013, Notice of Case Action. There is no evidence of a more recent FAP application or denial. Therefore, the FAP portion of this appeal must be **DISMISSED** for lack of jurisdiction.

MA

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.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. For FAP, the Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130 (10-1-2014) pp. 1-6.

Upon certification of eligibility results, the Department is to notify the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (10-1-2014) p. 1.

Medicare Savings Programs are SSI-related MA categories. Three categories make up the Medicare Savings Programs: Qualified Medicare Beneficiaries (QMB), Specified Low-Income Medicare Beneficiaries (SLMB), and Q1 Additional Low-Income Medicare Beneficiaries (ALMB or Q1). Income is the major determiner of category. BEM 165, 4-1-2014, p. 1.

QMB	Net income cannot exceed 100% of poverty
SLMB	Net income is over 100% of poverty, but not over 120% of poverty.
ALMB (Q1)	Net income is over 120% of poverty, but not over 135% of poverty.

BEM 165, p. 1

A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. All eligibility factors must be met in the calendar month being tested. BEM 165 p. 1.

QMB pays: Medicare premiums, Medicare coinsurances, and Medicare deductibles. SLMB pays Medicare Part B premiums. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. BEM 165 p. 2.

Claimant contested the MA eligibility determination and questioned what was covered by the more recent approval.

On August 13, 2014, Claimant applied for MA. On August 14, 2014, a Verification Checklist was issued stating what verifications were requested with a due date of August 25, 2014. On August 26, 2014, the Department received requested verifications.

However, on September 18, 2014, a Health Care Coverage Determination Notice was issued to Claimant for a denial/closure stating Claimant was over the income limit and requested verifications were not returned. This notice does not specify what MA program the denial was for, such as the Medicare Savings Program or another Medicaid program. However, it is noted that the included chart lists income limits for a different Medicaid program and not the Medicare Savings Program.

On December 16, 2014, Claimant filed a request for hearing contesting the Department's actions regarding MA. This hearing request was filed within 90 days to appeal the September 18, 2014 MA denial notice.

On December 17, 2014, Claimant's MA application was reviewed and re-instated by the Department noting the verifications were only a day late. The Department asserted that Claimant was then approved for the Medicare Savings Program as a QMB and will be left on.

However, the December 17, 2014, a Health Care Coverage Determination Notice states the Medicare Savings Program was approved effective November 1, 2014, but denied for the month of October 2014 due to income in excess of program limits. The Department has not presented any evidence regarding the Medicare Savings Program denial for October 2014 based on income in excess of program limits. Similarly, the Department has not presented any evidence explaining why upon reinstatement of the August 13, 2014, MA application, there appears to be no determination for the Medicare Savings Program months from August 2014 and September 2014. Further, it is again

noted that the chart included on this notice lists income limits for a different Medicaid program.

The Department testified that Claimant would be over an asset limit for Medicaid. However, there is no documentary evidence of a MA denial based on assets.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's MA eligibility.

DECISION AND ORDER

Accordingly, the Department's **REVERSED** with respect to MA eligibility.

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. Re-determine Claimant's MA eligibility retroactive to the August 13, 2014 application date through October 2014 in accordance with Department policy.
2. Issue Claimant written notice of the determination(s) in accordance with Department policy.
3. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

CL/hj

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 48909-8139

cc:

