

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████████████████

Reg. No.: 2014-10430
Issue Nos.: 2001, 3000
Case No.: ██████████
Hearing Date: December 5, 2013
County: Wayne (82-18)

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 December 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUES

1. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?
2. 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 was an ongoing recipient of FAP and of disability-based MA based on the Medical Review Team (MRT) finding that he was disabled.
2. On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying him that effective November 1, 2013, his monthly FAP benefits were decreasing to \$347 as a result of the termination of the federal government's extra benefits under the American Recovery and Reinvestment Act of 2009.

3. In connection with Claimant's medical review for ongoing MA eligibility, the Department became aware that on October 22, 2013, the Social Security Administration (SSA) Appeals Council had denied Claimant's request to review the finding of the SSA Administrative Law Judge that he was not disabled.
4. On October 23, 2013, the Department sent Claimant a Notice of Case Action closing his MA case effective December 1, 2013, because of SSA's final determination that he was not disabled.
5. On November 4, 2013, Claimant filed a request for hearing disputing the Department's actions concerning his MA 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).

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, Claimant requested a hearing concerning the closure of his FAP and MA cases. At the hearing, the Department testified that Claimant's FAP case was not closed or due to close. The Department explained that the only action taken with respect to Claimant's FAP case was a decrease in monthly FAP benefits due to the termination of extra benefits provided under federal law and provided an eligibility summary showing Claimant's ongoing, uninterrupted monthly FAP benefits of \$347. A client's request for a hearing regarding the issue of a mass update required by state or federal law is not granted unless the reason for the request is an issue of incorrect computation of program benefits or patient-pay amount. BAM 600 (July 2013), p. 5. Effective November 1, 2013, due to a change in federal law, the maximum monthly FAP benefits available to a FAP group with two members is \$347. RFT 260 (December 2013), p. 1. Because the only change to Claimant's FAP case was due to the mass update resulting from the change in federal law and Claimant received the maximum FAP benefits available to his FAP group size of two, Claimant's hearing request

concerning the FAP matter is dismissed. The hearing proceeded to address Claimant's MA case.

The Department testified that Claimant's MA case closed because of the final decision of the SSA Appeals Council denying his appeal of the finding that he was not disabled. If the Appeals Council decision is a denial, the decision is binding on the client's MA case, and the Department must follow the final SSI eligibility determination procedures outlined in BEM 271 (July 2013), p. 10. This requires that a client's MA case be closed if SSA's determination that disability or blindness does not exist for Supplemental Security Income (SSI) **and**

- The determination was made after 1/1/90, **and**
- No further appeals may be made at SSA; see Exhibit II in BEM 260, **or**
- The client failed to file an appeal at any step within SSA's 60-day limit, **and**
- The client is **not** claiming:
 - A totally different disabling condition than the condition SSA based its determination on, **or**
 - An additional impairment(s), change, or deterioration in his/her condition that SSA has reviewed and made a determination on yet.

In this case, no further appeals could be made at SSA following the October 22, 2013, decision of the Appeals Council denying Claimant's request to review the federal ALJ finding of no disability. However, Claimant claimed a deterioration of his condition that SSA had not reviewed or made a determination concerning. He explained at the hearing that his SSA attorney had failed to timely submit his most recent medical documentation to the SSA showing the deterioration of his condition. In support of his claim that his condition had deteriorated, Claimant presented a [REDACTED] letter from his treating physician that indicated he had end-stage COPD, coronary artery disease with coronary stents, and obesity. The letter noted that Claimant was on continuous home oxygen and his prognosis is poor. Under these facts, the Department was required to obtain a new medical report and resubmit to the MRT for a new determination in accordance with BEM 260, p. 10. See also BEM 105 (July 2013), p. 5 (requiring that the Department conduct an *exparte* review before MA closure to consider a client's eligibility under all MA categories).

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 closed Claimant's MA case.


DECISION AND ORDER

Because Claimant's only issue concerning his FAP case related to a mass update in benefits, Claimant's hearing request concerning the FAP issue is DISMISSED.

The Department's decision closing Claimant's MA case is 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. Reinstate Claimant's MA case effective December 1, 2013;
2. Process Claimant's case pursuant to BEM 260; and
3. Provide Claimant with MA coverage he is eligible to receive from December 1, 2013, ongoing.


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

Date Signed: December 10, 2013

Date Mailed: December 11, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-10430/ACE

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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]