

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

IN THE MATTER OF:

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

Reg. No.: 2014-15724
Issue No(s): 2001;3008
Case No.: ██████████
Hearing Date: January 8, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on January 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Daughter/Authorized Representative, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case based on excess income and calculate the amount of her Food Assistance Program (FAP) benefits?

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 MA and FAP benefits.
2. In connection with a redetermination, Claimant's eligibility for MA and FAP benefits was reviewed.
3. On November 21, 2013, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2014, her MA case would be closed on the basis that her income exceeds the limit. (Exhibit 1).

4. On December 2, 2013, Claimant submitted a hearing request disputing the MA case closure and the Department's failure to include her daughter and granddaughter as FAP group members.

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).

MA

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 to dispute the closure of her MA case based on excess income. Claimant was previously receiving MA benefits under the Ad-Care MA program. Income eligibility for the Ad-Care program exists when net income does not exceed the income limit in RFT 242. BEM 163 (July 2013), p. 2. The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p.2. Effective April 1, 2013, the monthly income limit for a group size of one is \$958 and the monthly income limit for a group size of two is \$1293. RFT 242 (December 2013), p. 1.

At the hearing, the Department failed to produce a MA Income budget showing how the Department calculated Claimant's income for MA purposes. The Department testified that Claimant has monthly earned income from RSDI of \$[REDACTED] and that she receives a monthly pension of [REDACTED] however, the Department was unable to explain how those amounts resulted in excess income. Further, the Department did not present any evidence regarding any deductions that may have been applied to determine net income.

Therefore, the Department has failed to satisfy its burden of establishing that it acted in accordance with Department policy when it closed Claimant's MA case effective January 1, 2014, based on excess income.

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 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.

Additionally, Claimant requested a hearing disputing the Department's failure to include her daughter and granddaughter as members of her FAP group. Claimant's representative testified that Claimant informed the Department that Claimant's daughter and granddaughter were living in Claimant's home and that Claimant wanted them to be added to her FAP group. The Department testified that in connection with Claimant's redetermination interview on November 21, 2013, the Department was informed that Claimant's daughter and granddaughter were living in the home and needed to be included as FAP group members. The Department presented a case comments summary in support of its testimony. (Exhibit 2). The Department acknowledged that the FAP group size should have been updated to include the additional two members and that it acted in error by failing to do so. Therefore, the Department did not act in accordance with Department policy when it failed to include the additional two FAP group members to Claimant's FAP case.

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 closed Claimant's MA case and processed her FAP benefits.

DECISION AND ORDER

Accordingly, the Department's MA and FAP 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. Reinstate Claimant's MA case effective January 1, 2014;
2. Issue supplements to Claimant for any MA benefits that she was entitled to receive but did not from January 1, 2014, ongoing;
3. Recalculate Claimant's FAP budget for December 1, 2013, ongoing, to include Claimant's daughter and granddaughter as FAP group members;
4. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from December 1, 2013, ongoing; and
5. Notify Claimant in writing of its decision.



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

Date Signed: January 13, 2014

Date Mailed: January 14, 2014

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

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

ZB/tm

cc|

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]