

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2912
Issue No(s): 2001, 3001
Case No.: [REDACTED]
Hearing Date: December 5, 2013
County: Macomb County DHS #20

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. A telephone hearing scheduled for November 7, 2013 was adjourned at the Claimant's request. After due notice, a three way telephone hearing was held on December 5, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Caseworker.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases?

FINDINGS OF FACT

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

1. The Claimant and her daughter were ongoing recipients of Medicaid and FAP benefits.
2. On July 2, 2013, the Department issued a Notice of Case Action to the Claimant stating the FAP case would close effective August 1, 2013, based on excess income and the Medicaid cases would close effective September 1, 2013, because there was no eligibility.
3. On September 30, 2013, the Claimant filed a request for hearing contesting the Department's actions.

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.

BEM 550, 554, and 556 address the FAP budget. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550. For income from employment, the gross wages are counted as earned income. BEM 501. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. BEM 505. Court-ordered direct support means child support payments an individual receives directly from the absent parent or the MiSDU. Bridges counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503. An unreimbursed dependent care expense for a child or an incapacitated adult who is a member of the FAP group, is allowed when such care is necessary to enable a member of the FAP group to work. All FAP groups receive the mandatory heat and utility standard based on the receipt of \$1 in Low Income Home Energy Assistance Program (LIHEAP). This LIHEAP benefit allows all FAP cases to receive the mandatory heat and utility standard, even if they do not have the responsibility to pay and do not provide verification. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. Certain verified medical expenses are also allowed to be included in the FAP budget. BEM 554.

Additionally, a non-categorically eligible non-Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550. The FAP gross income limit for a group size of two is \$██████████ RFT 250.

For Medicaid, income eligibility exists for the calendar month tested when: (1) there is no excess income, or, (2) allowable medical expenses equal or exceed the excess income. BEM 545.

In reviewing the FAP budget for the benefit period starting August 1, 2013, the Department counted \$461 of unearned income. (Exhibit A, page 6) The Caseworker testified that child support would have counted as the unearned income. However, there was no evidence to establish that the Claimant received \$[REDACTED] in child support or other unearned income in August 2013. The Bridges system printout regarding child support showed the monthly totals were only \$[REDACTED] in June 2013 and \$[REDACTED] in July 2013. Further, no child support payments were received in August or September 2013. (Exhibit A, page 9) Accordingly, it does not appear that the child support was correctly counted to determine FAP income eligibility for the benefit period starting August 1, 2013.

Additionally, the Caseworker testified that the Claimant's Medicaid case changed to a deductible. While the comments section of the Case Action Notice also indicates the Medicaid would change to a deductible, the Notice actually states the Medicaid cases would close effective September 1, 2013. The notice indicates a determination was made that the Claimant and her daughter were not eligible because they are not under 21, pregnant, a caretaker of a minor child in the home, over age 65, blind or disabled. (Exhibit A, pages 3-4) There is insufficient evidence submitted to establish how a Medicaid deductible was calculated, such as a MA budget, or alternatively to support the determination that neither the Claimant nor her daughter were eligible for Medicaid. It is noted that the information submitted regarding the FAP case would suggest that the Claimant's daughter is a minor child, date of birth July 2, 2011, and that the Claimant is the caretaker of this minor in the home based on the dependent care expense. (Exhibit A, pages 6 and 9)

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 the Claimant's MA and FAP cases.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.
- 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 the Claimant's FAP case retroactive to the August 1, 2013, effective date.
2. Reinstate the MA cases for the Claimant and her daughter retroactive to the September 1, 2013, effective date.
3. Re-determine eligibility for FAP and MA in accordance with Department policy.
4. Issue the Claimant any supplement she may thereafter be due.

/s/
Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 9, 2013

Date Mailed: December 10, 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

20142912/CL

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

CL/hj

cc:

