

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-017141
Issue No.: 3008; 2007; 5002; 1001
Case No.: [REDACTED]
Hearing Date: January 08, 2015
County: GENESEE-DISTRICT 6

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 8, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Food Assistance Program (FAP) monthly allotment; did the Department properly deny the Claimant's applications for State Emergency Relief (SER), State Disability Assistance (SDA) and Family Independence Program (FIP) and did the Department properly determine the Claimant's Medical Assistance benefits and/or deductible?

FINDINGS OF FACT

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

1. On September 30, 2014, the Claimant applied for SDA and/or FIP and SER.
2. On October 1, 2014, the Department sent the Claimant notice that her application for FIP and SDA was denied.
3. On October 14, 2014, the Claimant submitted a hearing request for a denial of her application for SDA and FIP benefits.
4. On October 9, 2014, the Department sent the Claimant notice that her applications for SER had been denied due to her failure to return the required verifications.

5. October 23, 2014, the Claimant submitted a hearing request for a denial of her SER applications.
6. Per Department hearing summary and the Hearing Request Withdrawal in evidence, on October 27, 2014, during a prehearing conference, the Claimant withdrew her requests for hearing dated October 14, 2014 and October 23, 2014, regarding her FAP, SER and MA issues.
7. On November 17, 2014, the Claimant again submitted a hearing request regarding FIP, SDA, FAP, SER, MA and AMP, which essentially rescinded her previous hearing request withdrawals.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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.

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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, Bridges Assistance Manual (BAM) 130 (2014) p. 2 provides that the Department worker tell the Claimant what verification is required, how to obtain it and the due date by using either a DHS-3503 Verification Checklist, or for MA determinations, the DHS-1175, MA Determination Notice to request verification. In this case, the Department did exactly that.

Bridges Assistance Manual (BAM) 130 (2014) p. 5 provides that verifications are considered to be timely if received by the date they are due. It instructs Department workers to send a negative action notice when the Claimant indicates a refusal to provide a verification, or when the time period given has elapsed and the Claimant has not made a reasonable effort to provide it. In this case, the Claimant conceded on the record that she did not return the required verification before the due date lapsed. Therefore, the Administrative Law Judge determines that the time period to submit the verification had lapsed and the Claimant had made no reasonable effort to provide the verification. Furthermore, it is not contested that the Claimant did not seek assistance in obtaining the verifications nor did she seek an extension. As such, the Administrative Law Judge concludes that the Department has met its burden of establishing that it was acting in accordance with policy when taking action to deny the Claimant's SER applications for failure to submit the required verification.

The Claimant does not contest that she has MA benefits. The Administrative Law Judge takes official notice of the fact that MA is much more comprehensive coverage than the Adult Medical Program (AMP). As such, the Claimant suffered no negative action when the Department determined that the Claimant is eligible for MA as opposed to AMP. Lastly, the Claimant is an RSDI recipient based on her disability. Therefore, the Claimant has been properly determined to be eligible for MA based on disability. Though the Claimant did not request a hearing on the issue, during the hearing she did protest her MA deductible. The budget was reviewed with the Claimant, on the record during the hearing. The Claimant did not contest the amounts allowed as income and deductions in her MA budget. As such, the Claimant was informed that the Administrative Law Judge concluded that her deductible had been determined in accordance with policy. Bridges Eligibility Manual (BEM) 545.

The Claimant also complained during the hearing that her MA benefits did not cover vision and dental. Bridges Administrative Manual (BAM) 402 (2014), p. 19, provides that dental and vision benefits may be available only to certain age groups and may be limited in their scope or may require prior approval. The policy directs claimant to contact their medical service providers directly whenever information is needed regarding MA covered services.

Lastly, during the hearing, the Claimant protested that she had disability MA with a deductible instead of the Healthy Michigan Plan with no deductible. BEM 260 (2014) p.1, provides that a person eligible for RSDI benefits based on disability or blindness meets the disability or blindness criteria for MA. BEM 105 (2014) p. 2, provides that an individual may qualify under more than one MA category and that person has the right to the most beneficial category. During the hearing, the Department could not answer why it is that the Claimant was not eligible for HMP with no deductible. The Claimant's income was calculated and compared to the income eligibility categories contained on the DHS-1606, Health Care Coverage Determination notice. It appeared that the Claimant may be income eligible for HMP if her group size was only one. However, her group size is likely greater than one if she is applying for FIP benefits.

The DHS-1606, Health Care Coverage Determination Notice initially denying the Claimant informed the Claimant that the reason for the action was because she was not blind, disabled, pregnant, parent/caretaker relative of a dependent child or she failed to meet age requirements. It is not contested that the Claimant is disabled. She likely also has dependent children if she is applying for FIP benefits and was denied for excess income. As such, the Administrative Law Judge is not persuaded that the Claimant was able to exercise her right to choose the most beneficial category of Medical Assistance.

The Claimant applied and was approved for FAP benefits in the monthly amount of \$16.00. The Claimant protested and asserted that she was disabled and is therefore entitled to additional assistance from the state. The Claimant's FAP budget was reviewed in great detail with her. The Claimant does not contest any of the amounts considered as income or expenses in the budget. The Claimant simply asserts that because she's disabled she's entitled to more assistance. The Claimant was informed that the Administrative Law Judge knew of no provision in departmental policy which would indicate that the Claimant is entitled to additional FAP benefits because she is disabled. As the Claimant's FAP budget is not contested, this Administrative Law Judge concludes that the Department has met its burden of proving that it was acting in accordance with departmental policy when taking action to determine the Claimant's monthly FAP allotment.

The Claimant also applied for cash assistance and was therefore considered for FIP as well as SDA. The Department personnel testified that the Claimant was not eligible for SDA as she receives Retirement, Survivors and Disability Insurance (RSDI), based on disability. However, upon review of the policy, BEM 261 (2014) p. 2, provides that persons receiving RSDI due to disability or blindness meet the SDA disability criteria. The Department personnel present at the hearing testified that the Claimant was denied FIP benefits due to excess income. BEM 515 and 518 address FIP and SDA income and needs budgeting. Those policies provide for a detailed budgeting process. There is no FIP or SDA budget in evidence. As such, the Administrative Law Judge concludes that the evidence is insufficient to establish that the Department was acting in accordance with departmental policy when taking action to deny the Claimant's application for FIP and SDA.

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 took action to determine the Claimant's monthly FAP allotment and when it took action to deny the Claimant's applications for SER benefits. The Administrative Law Judge finds that the evidence is insufficient to establish that the Department acted in accordance with Department policy when it took action to deny the Claimant's application for FIP and SDA due to excess income and when it chose disability MA without first considering if HMP was a more beneficial plan for the Claimant. If disability MA is the correct program for the Claimant, the Administrative Law Judge finds that the Department properly determined the Claimant's monthly deductible.

DECISION AND ORDER

AFFIRMED IN PART with respect to FAP and SER and REVERSED IN PART with respect to SDA, FIP and MA.

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. Redetermine the Claimant's eligibility for MA, FIP and SDA back to September 30, 2014, considering which would be the most beneficial category of MA for the Claimant, and
2. Issue the Claimant any supplements she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **1/12/2015**

Date Mailed: **1/12/2015**

SEH/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:

