

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

IN THE MATTER OF:



Reg. No.: 15-000722
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: February 12, 2015
County: ST. JOSEPH

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 February 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payments Supervisor.

ISSUES

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

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment?

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 received Healthy Michigan Plan (HMP) MA benefits.
2. Claimant is an ongoing FAP recipient.
3. Claimant's FAP case was due for a Redetermination November 2014.
4. On November 6, 2014, Claimant returned the completed Redetermination form.
5. The Redetermination interview was completed.

6. On November 14, 2014, Claimant met with the Eligibility Specialist and signed a written statement of his income and expenses, but took home a bag of receipts rather than separating them to submit to the Department.
7. On November 25, 2014, a Healthcare Coverage Determination Notice was issued to Claimant stating the MA case would close effective January 1, 2015, because of income in excess of the program limit and not meeting categorical eligibility for other MA programs.
8. On November 25, 2014, a Verification Checklist was issued to Claimant stating verification of vehicle ownership was needed by the December 5, 2014, due date.
9. On December 4, 2014, a Notice of Case Action was issued to Claimant stating FAP was approved with a monthly allotment of \$16 effective December 1, 2014.
10. On December 18, 2014, Claimant called the Department and left a message for the Eligibility Specialist stating his income was not correctly budgeted.
11. On January 8, 2015, Claimant filed a request for hearing contesting the Department's actions.
12. At a January 9, 2015, prehearing conference, Claimant submitted a self-employment income verification showing no income in January 2015.
13. On January 9, 2015, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would increase to \$ [REDACTED] effective January 1, 2015.
14. Claimant's HMP benefits were reinstated effective January 2015 with no loss in coverage.

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 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 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 Department of Human Services must periodically redetermine or renew an individual's eligibility for active programs. The redetermination process includes thorough review of all eligibility factors. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210, 7-1-2014, p. 1.

A Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105, 10-1-2014, p. 7.

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. 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. The client must obtain required verification, but the Department must assist if they needs and requests help. If neither the client nor the local office can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. For MA, the Department is to send a negative action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130, 10-1-2014, pp. 1-8.

MA

In this case, the Department initially denied ongoing HMP eligibility using the income information provided for the Redetermination. The Department explained that not all of the listed expenses on the handwritten statement were eligible expenses. Claimant's HMP case was to close effective January 1, 2015, due to exceeding the income limit for this program. However, at the January 2015, prehearing conference, Claimant submitted self-employment income verification showing no income in January 2015. The Department re-determined eligibility for HMP and found Claimant was now under the income limit for this program. Accordingly, the Department re-instated Claimant's HMP case effective January 1, 2015, with no loss of coverage.

Claimant's described difficulties working with the Department and frustration with having to provide frequent verifications. However, BAM 210 requires the Department to periodically review ongoing eligibility. Further, when income regarding an eligibility

factor is subject to changes, such as self-employment income that is not steady and may vary from month to month, the Department policy directs that verification should be requested to determine ongoing eligibility. Claimant acknowledged that some months he does not work and has no income. Accordingly, the Department has properly requested that Claimant updated self-employment income and expense verification.

The evidence establishes that the Department has properly determined Claimant's MA eligibility for HMP based on the income verifications as they have been submitted. Further, the Department re-instated Claimant's HMP case effective January 1, 2015, with no loss of coverage.

FAP

In addition to the above cited policy regarding Redetermination and verifications, additional BEM policies address FAP group composition and the FAP budget.

BEM 212, 7-1-2014, pp. 1-13 address the FAP group composition. If primary caretaker status is questionable or disputed, verification is needed. BEM 212 p. 4.

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. Every case is allowed the standard deduction shown in RFT 255. BEM 550 (2-1-2014), p.1. For self-employment income, only certain expenses are allowed. BEM 502, 8-1-2014, pp. 3-4. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (10-1-2014) p. 12. Heat and utility expenses can also be included as allowed by policy. Effective May 1, 2014, when processing applications, redeterminations, or when a change is reported clients are not automatically allowed the heat and utility (h/u) standard. The Department now includes only the utilities for which a client is responsible to pay. A FAP group which has a heating expense or contributes to the heating expense separate from rent, mortgage or condominium/maintenance payments must use the h/u standard. FAP groups whose heat is included in their rent or fees are not eligible for the h/u standard, unless they are billed for excess heat payments from their landlord. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, pp. 14-20.

Claimant contested the FAP group composition. On the Redetermination form, Claimant listed one of his children as sleeping in his home 261 days per year. However, the Department witnesses testified that this has been an ongoing issue with Claimant requesting to have one of the children added to his FAP case. The Department's testimony indicated they have reason to question the primary caretaker status. As noted above, if primary caretaker status is questionable or disputed, verification is needed. BEM 212 p. 4. There was no evidence that verification of a change in primary caretaker status has been submitted to the Department, such as a

documentation of a change in the physical custody order for this child. According, the Claimant's daughter cannot be added to his FAP group.

Regarding the FAP budget, the evidence shows that Claimant initially provided verification in November 2014 showing income and expenses. The Department determined the initial Redetermination FAP budget based on this reported income and any allowable self-employment and household expenses that were listed. For example, it was discussed at length during the hearing proceedings that the full heat and utility standard was allowed in Claimant's FAP budget based on the verification that he has heat and utility expenses.

Claimant did not provide a self-employment verification stating he had no income until the January 9, 2015 prehearing conference. Accordingly, the FAP budget was re-calculated for January 2015 and ongoing. This change in reported income could not be considered for the December 2014 FAP budget because it was not reported until January 9, 2015.

The evidence establishes that the Department has properly re-determined Claimant's FAP monthly allotment based on the most recent verification of income and allowable expenses as Claimant has submitted them.

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 determined Claimant's eligibility for MA and when it determined his FAP monthly allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **2/19/2015**

Date Mailed: **2/19/2015**

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:

