

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-000309
Issue No.: FOOD ASSISTANCE PROGRAM
Case No.: [REDACTED]
Hearing Date: February 10, 2015
County: MANISTEE

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 10, 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], Family Independence Manager.

ISSUES

Did the Department properly close Claimant's family member's Medical Assistance (MA) case based on a failure to return the Redetermination form?

Did the Department properly determine Claimant's family'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's family members were MA recipients.
2. Claimant's family is an ongoing recipient of FAP.
3. On November 10, 2014, a Redetermination form was issued to Claimant with a due date of December 1, 2014.
4. The Redetermination form was not returned to the Department.

5. On December 19, 2014, a Healthcare Coverage Determination Notice was issued to Claimant stating the family member's MA cases would close effective January 1, 2015, based on a failure to complete the Redetermination.
6. In December 2014, a mass update verified an increase in the FAP group's Social Security Administration (SSA) issued Supplemental Security Income (SSI) monthly income.
7. The Department re-calculated the FAP budget with the increased SSI income.
8. On December 28, 2014, a Notice of Case Action was issued to Claimant stating the FAP monthly allotment would decrease to \$ [REDACTED] effective February 1, 2015.
9. On January 5, 2015, 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).

MA

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 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.

For MA, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. BAM 210, p. 2.

In this case, Claimant's MA case was due for Redetermination. On November 10, 2014, a Redetermination form was issued to Claimant with a due date of December 1, 2014, to return the completed form. The Department witness testified that the Redetermination Form was not returned. Accordingly, on December 19, 2014, a Healthcare Coverage Determination Notice was issued to Claimant stating the family member's MA cases would close effective January 1, 2015, based on a failure to complete the Redetermination.

Claimant indicated she never received the Redetermination form in the mail. Claimant confirmed that address on the Redetermination form was correct, but described a consistent problem with mail delivery in her area.

Claimant also testified that it is a constant struggle with paperwork for the Department. Several times in the past six months, Claimant's case closed and she had to re-apply to have it re-opened. Claimant provides requested information and verification(s) thinking that the Department has what is need and she would then be left alone for at least six months. However, Claimant stated she would then have to provide more information and re-verify the same things multiple times. Claimant indicated this is particularly difficult because she is disabled. Claimant indicated she had just provided information to the Department for an October 2014 MA case action.

The Department witness reviewed the case record and indicated there had been a MA program error for some family member(s) that appears to have been corrected by the October 2014 case action. A correction for this known system error regarding the MA program and Emergency Services Only (ESO) Medicaid may not have required Claimant to provide any additional verification(s) to re-determine the MA eligibility for the affected family member(s). Therefore, verification(s) submitted in October 2014 may have only been needed for determining eligibly for other programs.

The evidence indicates Claimant's family receives and/or applied for benefits for multiple programs. Pursuant to the BAM 210 policy cited above, the Department of Human Services must periodically redetermine or renew an individual's eligibility for

active programs. Claimant's testimony that she frequently has to provide information and documentation to the Department is credible given the multiple programs and multiple family members included. However, the BAM 210 policy is also clear that for MA, benefits stop at the end of the benefit period unless a renewal is completed and a new benefit period is certified. In this case, the December 2014 Redetermination was not completed. Accordingly, the MA case for Claimant's family members had to close at the end of the prior benefit period because the Redetermination was not completed to certify a new benefit period.

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 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.

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. The gross amount of the current Social Security Administration (SSA) issued Supplemental Security income (SSI) and Retirement Survivors and Disability Insurance (RSDI) benefits are counted as unearned income. BEM 503 (7-1-2014) pp. 28 and 32. 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.

In this case, the Department acknowledged that there was an error with the housing expense included in the FAP budget based on a verification the Department received in October 2014. The FAP budget included in the Department's exhibits indicates this was for a benefit period beginning in December 2014. As there was at least the error regarding the housing expense included in the FAP budget, the Department's determination of the FAP monthly allotment cannot be upheld.

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 closed Claimant's family member's MA case because the Redetermination was not completed, but did not act in accordance with Department policy when it determined the FAP monthly allotment.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the MA closure and REVERSED IN PART with respect to the determination of the FAP monthly allotment.

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. Re-determine the FAP monthly allotment, retroactive to December 2014, in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



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

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

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:

