

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001751
Issue No.: 2001, 3001
Case No.: [REDACTED]
Hearing Date: March 9, 2015
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 9, 2015, from Detroit, Michigan. Participants included the above-named Claimant (via telephone). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearings facilitator.

ISSUES

The first issue is whether Claimant is entitled to an administrative hearing concerning her DHS office preference.

The second issue is whether DHS properly determined Claimant's Medical Assistance (MA) eligibility.

The third issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FAP and Medicaid benefit recipient.
2. Claimant was a full-time college student.
3. Claimant was a member of a household that included two minor children, one of which was 7 years old as of 12/2014.

4. Claimant failed to submit verification of her rental obligation to DHS.
5. On an unspecified date, DHS determined that Claimant was eligible for Healthy Michigan Plan benefits (HMP), effective an unspecified date.
6. On an unspecified date, DHS determined Claimant was eligible for FAP benefits, effective 1/2015, in part, based on a 2 member FAP group, and a rent of \$0.
7. On [REDACTED], DHS mailed Claimant a Health Care Coverage Determination Notice (Exhibits 1-3) informing Claimant that she and her two children would receive medical benefits on another case.
8. On [REDACTED], Claimant requested a hearing to dispute her MA eligibility; Claimant also disputed her FAP eligibility from 1/2015 and 2/2015.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

The Healthy Michigan Plan is a new health care program that will be administered by the Michigan Department of Community Health, Medical Services Administration. The program will be implemented as authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013.

Claimant's hearing request included a narrative of her dispute under the question asking if she required special accommodation for the hearing. Claimant testified that she required no special accommodations and the hearing was conducted accordingly.

Claimant testified that she has been very dissatisfied with the service that she has received from her current DHS office. Claimant testified that she requested a hearing, in part, to seek a transfer to another DHS office.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;
 - reduction in the amount of program benefits or service;
 - suspension or termination of program benefits or service
 - restrictions under which benefits or services are provided;
 - delay of any action beyond standards of promptness; or
 - the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).
- BAM 600 (7/2013), p. 3.

DHS policy does not allow an administrative remedy for a client preference of DHS office. Claimant's hearing request will be dismissed concerning this issue.

Claimant requested a hearing, in part, to dispute her MA eligibility. Claimant was confused by a notice she received stating that she and her children would be eligible for MA benefits from 5/2014-12/2014. Claimant interpreted the letter as a termination of MA benefits beginning 1/2015.

DHS responded that Claimant and her children were switched from Medicaid to HMP benefits. DHS testimony also indicated that Claimant's MA coverage has not been interrupted. DHS testimony was consistent with a Health Care Coverage Determination Notice dated [REDACTED] (Exhibits 1-3) which stated that Claimant and her kids were active MA recipients on a different case. It is found that DHS did not terminate Claimant or her children's MA eligibility.

Claimant's MA dispute also appeared to be based on a previous eligibility for "straight Medicaid" vs. ongoing HMP eligibility. Claimant testimony suggested that she preferred her previous straight Medicaid to ongoing HMP eligibility.

DHS policy does not outline which MA programs result in Medicaid and which result in HMP eligibility. It is believed that only persons who receive MA based on age (over 65 years of age) or disability may be eligible for ongoing Medicaid; all other clients are eligible for HMP.

The Medicaid program is comprised of several sub-programs or categories. BEM 105 (10/2014), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Claimant alleged that she was disabled and applying for disability benefits from the Social Security Administration (SSA). Claimant also conceded that neither DHS nor SSA found her to be disabled. Unless Claimant is found disabled by DHS or SSA (see BAM 260), Claimant is not a disabled individual and not eligible for disability-based

health coverage. Thus, DHS properly considered Claimant to be eligible for HMP benefits, not Medicaid.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant's hearing request included many complaints about DHS, but not much information concerning what FAP eligibility determination was disputed. Claimant testified that she was satisfied with her 12/2014 FAP eligibility, but that she disputed her FAP eligibility for 1/2015 and 2/2015.

It was not disputed that DHS determined Claimant to be eligible for \$357 in 1/2015. It was not disputed that DHS based Claimant's eligibility on a group size of 2 persons. It was not disputed that Claimant was a household member who lived with her two minor children. DHS provided testimony that Claimant was disqualified from 1/2015 FAP eligibility due to Claimant's student status.

A person enrolled in a post-secondary education program may be in student status. BEM 245 (7/2014), p. 1. A person in student status must meet certain criteria in order to be eligible for assistance. *Id.*

A person is in student status if he/she is aged 18 through 49 years and enrolled half-time or more in either:

- a vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate; or
- a regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. *Id.*, p. 3.

During the hearing, Claimant denied ever reporting to DHS that she was a full-time student. Claimant's redetermination form (Exhibits 4-9) was then examined. Claimant completed her redetermination form on [REDACTED] and faxed it to DHS on [REDACTED]. The redetermination form unequivocally indicated that Claimant reported to DHS that she was a full-time student.

Claimant testified that she reduced her college credit hours to 4 since submitting her redetermination. Claimant was given until 5:00 p.m. to fax or verify verification of her current college status. Claimant neither emailed nor faxed verification. It should be noted, that even if Claimant did submit verification, it does not alter the fact that DHS relied on Claimant's own statement to determine her FAP eligibility. It is found that DHS

properly determined that Claimant was a full-time college student. It must then be determined whether Claimant meets an exception to student status.

In order for a person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year (i.e. work study).
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does not live with his or her natural, adoptive or stepparent.

Id., pp. 3-5.

The person remains in student status while attending classes regularly. *Id.*, p. 5. Student status continues during official school vacations and periods of extended illness. *Id.* Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). *Id.*

It was not disputed that Claimant is a single parent of a 7 year old child. Claimant is a single parent enrolled in full-time institution caring for a dependent under age 12. Claimant meets the last above-listed exception to student status. Accordingly, DHS erred in disqualifying Claimant from FAP eligibility from 1/2015 and 2/2015.

Claimant's FAP eligibility also included a dispute concerning rent. Claimant alleged that she is responsible for paying \$825/month in rent. Claimant's redetermination form listed a rental obligation of \$525/month. Claimant's redetermination form listed that she is responsible for paying only \$225/month.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (1/2015), p. 10. Expenses remain unchanged until the FAP group reports a change. BEM 554 (10/2014), p. 3. Rental obligations must be verified (see BEM 554).

Claimant testified that she submitted verification of her rent to DHS. Presumably, DHS did not receive Claimant's rent verification because Claimant's FAP budget did not include credit for a rental expense.

Claimant testified that her mother works two jobs and that Claimant receives monthly income from her. Claimant also testified that her children's father voluntarily pays her child support. Claimant testified that the gift income/child support exceeds \$700/month. Claimant testified that she pays her rent with the money given to her by her mother and children's father.

Claimant's testimony was remarkable for a number of reasons. It is possible that Claimant's mother works two jobs, in part, to support a non-disabled child who works zero jobs. It is possible that Claimant's mother is willing to provide financial support to her daughter for a several year period. It is possible that Claimant's mother's support extends to paying for Claimant to have her own residence rather than living in her mother's household. It is possible that Claimant's children's father would pay child support directly to Claimant and risk not being credited for child support payments. All of these scenarios are possibilities, but not likely possibilities.

Claimant testified that this circumstance has remained stable for several years and that she reported the income to DHS. Again, turning to Claimant's own written statements, her redetermination form, Claimant listed an income of \$0. Claimant's failure to list income again raises doubts of Claimant's credibility.

Claimant's overall testimony consistently lacked credibility. Based on Claimant's general lack of testimony credibility, it would be found that Claimant failed to submit a lease to DHS. Despite this skepticism, Claimant was given until the end of the hearing day to email an alleged email she sent to her specialist which included an attachment of her lease. Claimant failed to provide the email.

It is found that Claimant failed to submit verification of her rent to DHS. Accordingly, it is found that DHS properly budgeted \$0 for Claimant's rent.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there is no jurisdiction to concerning Claimant's preference of DHS office. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant and her children to be eligible for HMP benefits. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility from 1/2015. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective 1/2015, subject to the finding that Claimant meets a student eligibility exception; and
- (2) supplement Claimant for any benefits improperly not issued.

The actions taken by DHS are **PARTIALLY REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/12/2015**

Date Mailed: **3/12/2015**

CG / hw

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:

