

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

IN THE MATTER OF:

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Reg. No.: 15-003870
Issue Nos.: 2001; 3001
Case No.: ████████████████████
Hearing Date: April 20, 2015
County: Wayne (35-Redford)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. There were no participants on behalf of the Department of Health and Human Services (Department): Claimant requested to participate by phone in the hearing scheduled at 10:30 am and the Department was advised of the 3-way hearing on April 17, 2015; the Department was contacted several times on the hearing date via phone and email and the hearing proceeded without the Department's participation at 11:20 am.

ISSUE

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

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 recipient of FAP and MA benefits with a household consisting of Claimant and her minor son B, ████████████████████
2. On November 3, 2014, Claimant submitted a redetermination concerning her FAP and MA cases and indicated that her ex-husband, who is the father of B, was also in the household (Exhibit A).

3. On December 18, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting verification of the ex-husband's income by December 29, 2014 (Exhibit B).
4. On February 10, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying Claimant that (i) she was eligible for MA for April 1, 2015, ongoing but ineligible from May 1, 2014, to March 31, 2015, because she was eligible for benefits in another group and (ii) her son was ineligible for MA for April 1, 2015, ongoing because he was not under 21, pregnant, the caretaker of a minor child, over age 65, blind or disabled.
5. On February 19, 2015, the Department sent Claimant a Notice of Case Action closing her FAP case because the household's gross income exceeded the gross income limit for FAP eligibility (Exhibit C).
6. On March 4, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

Claimant requested a hearing concerning her FAP case closure and her and her son's MA coverage.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Parents and their children under 22 years of age who live together **must** be in the same group. BEM 212 (July 2014), p.1. Because Claimant's ex-husband is the father of B and lives in the household with Claimant and B, who is under age 22, Claimant's ex-husband is a mandatory member of Claimant's FAP group. Therefore, the Department properly requested verification of Claimant's ex-husband's income. BEM 212, p. 9; BEM 550 (February 2014), pp. 2-4.

Although the Department's hearing summary indicates that Claimant failed to verify the requested income information, the February 19, 2015, Notice of Case Action closed

Claimant's FAP case effective December 1, 2014 (the end of her certification period) because the household's gross income exceeded the gross income limit. For a FAP group with three members, the FAP gross income limit is \$3,300. RFT 250 (October 2014), p. 1, column D (income limit for enhanced domestic violence authorization groups); BEM 213 (July 2014), pp. 1, 2 (groups authorized to receive domestic violence protection services). The gross income limit applies only to households with no senior/disabled/veteran (SDV) members. BEM 550, p. 1.

In this case, the February 19, 2015, Notice indicates that Claimant's household's gross income was \$5,375, well in excess of the \$3,300 limit. However, the Department was not present to explain the basis for its calculation of gross income and Claimant disputed the calculation. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP case for excess gross income.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The February 19, 2015, Health Care Coverage Determination Notice indicates that Claimant was approved for MA for April 1, 2015, ongoing but was denied coverage from May 1, 2014, to March 31, 2015, because she was eligible under another case. However, the Department did not present any evidence concerning her eligibility under another case. Therefore, while Claimant does not dispute the MA approval for April 1, 2015, ongoing, the Department failed to satisfy its burden of showing that Claimant was provided with the most beneficial MA program from May 1, 2014, to March 31, 2015. BEM 105 (October 2014), p. 2.

The February 19, 2015, Notice also indicates that Claimant's son was ineligible for MA for April 1, 2015, ongoing because he was not under 21. However, the redetermination Claimant completed shows that he was 15 years old. Claimant's son's eligibility for MA will be dependent on MAGI policy concerning group composition, which is dependent on tax filing status, and income. MAGI Eligibility Manual, Ch. 5. In this case, the Department failed to show that it acted in accordance with Department policy when it closed Claimant's son's MA case.

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 approved Claimant for MA effective April 1, 2015, ongoing but failed to satisfy its burden of showing that it acted in accordance with

Department policy when it (i) closed Claimant's FAP case; (ii) closed Claimant's son's MA case; and (iii) failed to establish Claimant's MA eligibility for May 1, 2014, to March 31, 2015.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to approval of Claimant's MA case effective April 1, 2015, ongoing and **REVERSED IN PART** with respect to closure of her FAP case, closure of her son's MA case, and the status of her MA case from May 1, 2014, to March 31, 2015.

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. Reprocess Claimant's MA eligibility for May 1, 2014, to March 31, 2015;
2. Reinstate Claimant's son's MA case effective April 1, 2015;
3. Reprocess Claimant's son's MA eligibility for April 1, 2015, ongoing;
4. Provide Claimant with MA coverage she was eligible to receive from May 1, 2014 to March 31, 2015 and provide Claimant's son with MA coverage he is eligible to receive for April 1, 2015 ongoing;
5. Reinstate Claimant's FAP case effective December 1, 2014;
6. Reprocess Claimant's FAP eligibility for December 1, 2014, ongoing; and
7. Notify Claimant in writing of its decision regarding her MA for May 1, 2014, to March 31, 2015; her son's MA for April 1, 2015, ongoing; and her FAP for December 1, 2014, ongoing.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/22/2015**

Date Mailed: **4/22/2015**

ACE / pf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]