

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004586
Issue No.: 2001, 3000
Case No.: [REDACTED]
Hearing Date: May 06, 2015
County: KENT-DISTRICT 1 (FRANKLIN)

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on May 06, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her authorized hearing representative [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager.

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Claimant's eligibility for Medicare Savings Program (MSP) and Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Food Assistance Program (FAP) and Medical Assistance (MA) recipient.
2. The Claimant applied for Medicare Savings Program (MSP) benefits.
3. On October 15, 2014, the Department notified the Claimant that it would reduce her FAP benefits because she was no longer entitled to the heat and utility deduction.
4. On March 16, 2015, the Department received the Claimant's request for a hearing.

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).

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 and the Department of Human Services) 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 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.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for 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.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(April 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human

Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

On October 15, 2014, the Department notified the Claimant that it would reduce her FAP benefits after determining that she was no longer entitled to the heat and utility deduction. Since then, the Department has received verification that the Claimant is entitled to this deduction when determining her eligibility for FAP benefits.

For all Food Assistance Program (FAP) groups that received the heat and utility standard on or before February 7, 2014, the heat and utility standard will remain in place for a period of five months after the month of their first redetermination or first reported case change occurring on or after May 1, 2014. In order to continue receiving the heat and utility standard beyond the expiration of the five month period, the Food Assistance Program (FAP) group must meet the requirements of the mandatory heat and utility standard section. Department of Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2014), p 15.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. BEM 554, p 14.

The Claimant is an ongoing FAP recipient and on October 15, 2014, the Department notified her that it would reduce her monthly allotment because she was no longer entitled to the heat and utility deduction. The Department had requested verification of the Claimant's obligation to pay for heat and utilities separate from her housing expenses but did not receive anything from the Claimant. Since requesting her hearing, the Department has received verification of the Claimant's heating expenses and will apply this to her eligibility in subsequent months.

However, the Claimant's request for a hearing was not received within 90 days of the Department's notification of the reduction of benefits. Therefore, the Claimant's request for a hearing is not timely with respect to this reduction of FAP benefits. The Claimant is entitled to a hearing concerning her ongoing benefits, but is not eligible to have the heat and utility deduction applied to those months because she did not provide the Department with verification of this housing expense as outlined in BEM 554.

There are three categories of Medicare Savings Program (MSP) benefits including the Qualified Medicare Beneficiary (QMB), the Special Low Income Medicare Beneficiary (SLBM), and the Additional Low Income Medicare Beneficiary (ALMB). QMB pays Medicare premiums, and Medicare coinsurances, and Medicare deductibles. QMB coverage begins the calendar month after the processing month. SLMB pays Medicare

Part B premiums. SLMB coverage is available for retro MA months and later months. ALMB pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. ALMB coverage is available for retro MA months and later months. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 2-3.

A person who is eligible for one of these categories cannot choose to receive a different Medicare Savings Program category. For example, a person eligible for QMB cannot choose SLMB instead. BEM 165, p 1.

The Claimant requested Medicare Savings Program (MSP) benefits. The Department does not dispute that the Claimant is eligible for these benefits and has requested a help desk ticket to issue benefits.

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 did not act in accordance with Department policy when it failed to issue Medicare Savings Program benefits within the standard of promptness.

DECISION AND ORDER

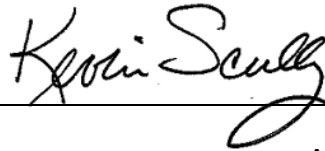
The Claimant's hearing request is DISMISSED with respect to the Food Assistance Program (FAP) only.

The Department's decision is REVERSED with respect to the Medicare Savings Program.

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. Initiate a determination of the Claimant's eligibility for the Medicare Savings Program.
2. Implement a help desk ticket as necessary to determine the Claimant's eligibility for benefits.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/12/2015**

Date Mailed: **5/12/2015**

KS/sw

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:

