

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013758
Issue No.: 2004; 3001; 3008
Case No.: [REDACTED]
Hearing Date: August 31, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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, an in-person hearing was held on August 31, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included [REDACTED], Family Independent Specialist.

ISSUES

Did the Department properly process Claimant's Medical Assistance (MA) application dated [REDACTED]?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective [REDACTED], ongoing?

Did the Department properly close Claimant's FAP benefits effective [REDACTED] ongoing?

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 is an ongoing recipient of FAP benefits.
2. On [REDACTED], Claimant applied for FAP and MA benefits. See Exhibit A, pp. 1-28.

3. In the application, Claimant reported that she was employed as of [REDACTED] and that the address of her employer was a school district. See Exhibit A, p. 6.
4. The Department failed to provide evidence that it properly processed Claimant's eligibility for MA benefits (i.e., Health Care Coverage Determination Notice).
5. On [REDACTED], Claimant applied for FAP benefits and State Emergency Relief (SER) assistance. See Exhibit B, pp. 1-32. In this application, Respondent did not report any form of income. See Exhibit B, pp. 9-10.
6. On or around [REDACTED], the Department received Claimant's employment verification that indicated she was previously employed and that her date of employment ended or expected to end was [REDACTED]. See Exhibit C, pp. 1-2.
7. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$16 effective [REDACTED], ongoing. See Exhibit D, pp. 5-6. The Department budgeted Claimant's gross earned income to be \$1,655. See Exhibit D, p. 6.
8. On [REDACTED], the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits increased to \$63 effective [REDACTED]. See Exhibit D, pp. 9-10. This Notice of Case Action failed to indicate whether or not the Department budgeted any earned income for Claimant. The Notice of Case Action further notified Claimant that her FAP benefits would close effective [REDACTED], ongoing, based on her failure to participate in employment-related activities without good cause. See Exhibit D, pp. 9-10. However, the Department indicated that Claimant had reestablished FAP eligibility by obtaining employment before the disqualification took effect and her benefits increased to \$194 effective [REDACTED].
9. On [REDACTED], Claimant filed a hearing request, protesting her FAP and MA benefits. See Exhibit D, pp. 2-3.

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 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.

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.

FAP allotment

In this case, Claimant argued that the Department improperly calculated her FAP benefits. After a thorough review of the evidence record, the undersigned addressed whether the Department properly calculated Claimant's FAP benefits effective August 1, 2015, ongoing, for the reasons stated below.

In the application dated [REDACTED], Claimant reported that she was employed as of [REDACTED] and that the address of her employer was a school district. See Exhibit A, p. 4. Moreover, Claimant testified that she received her last pay check on [REDACTED]. See Exhibit D, p. 3 (Hearing Request indicating her work stopped on [REDACTED]). Claimant testified that she reported that her employment had ended in a redetermination that she submitted on or around [REDACTED]; however, neither party provided any copy of a redetermination. Then, on [REDACTED], Claimant applied for FAP benefits and SER assistance. See Exhibit B, pp. 1-32. In this application, Respondent did not report any form of income. See Exhibit B, pp. 9-10. Moreover, on or around [REDACTED] or [REDACTED], the Department received Claimant's employment verification that indicated she was previously employed and that her date of employment ended or expected to end was [REDACTED]. See Exhibit C, pp. 1-2.

Based on the above information, the evidence indicated that Claimant first reported that her employment had ended in her application dated [REDACTED]. Claimant alleged that she reported that her employment had ended on or around [REDACTED]; however, she failed to provide any such documentary evidence.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (July 2015), p. 10. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 10. Income reporting requirements are limited to the following:

- Earned income:
 - Starting or stopping employment.
 - Changing employers.

- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 11.

The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2015), p. 7. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 7.

Additionally, for stopping income, the Department budgets the final income expected to be received in the benefit month. BEM 505 (July 2015), p. 7. The Department uses the best available information to determine the amount of the last check expected. BEM 505, p. 7. The Department uses information from the source and from the client. BEM 505, p. 7. The Department removes stopped income from the budget for future months. BEM 505, p. 7.

Based on the above information, the evidence established that on or around [REDACTED], Claimant had reported/verified that her employment had ended. See Exhibit B, pp. 9-10 and Exhibit C, pp. 1-2. Thus, the change would have resulted in an increase in the FAP benefits effective [REDACTED]. See BAM 220, p. 7. The Department would have stopped budgeting her income effective [REDACTED]. Even though Claimant alleged that her last paycheck was received on [REDACTED], the evidence indicated that she did not report this change until [REDACTED]. Because Claimant did not report the change until [REDACTED], her benefits would not be impacted until [REDACTED]. See BAM 220, p. 7. Nevertheless, because the Department failed to provide any FAP budget for the undersigned to review, it is unclear if the Department properly budgeted Claimant's FAP allotment. As such, the Department is ordered to recalculate Claimant's FAP allotment for August 2015, including whether she received any earned income in accordance with Department policy.

FAP closure

In this case, on [REDACTED], the Department sent Claimant a Notice of Case Action notifying that her FAP benefits would close effective [REDACTED], ongoing, based on her failure to participate in employment-related activities without good cause. See Exhibit D, pp. 9-10. However, the Department indicated that Claimant had reestablished FAP eligibility by obtaining employment before the disqualification took effect and her benefits increased to \$194 effective [REDACTED].

Claimant testified that she worked at the school district and that her employment ended for the summertime due to the summer recess. Claimant testified that her last pay

check was on [REDACTED]. See Exhibit D, p. 3 (Hearing Request indicating her work stopped on [REDACTED]).

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may apply when the client is pending or active FAP only and refuses employment (voluntarily quits a job or voluntarily reduces hours of employment) without good cause. BEM 233B (July 2013), p. 1.

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive food assistance program benefits. BEM 233B, p. 4. The Department disqualifies non-deferred adults who were working when the person: voluntarily quits a job of 30 hours or more per week without good cause, or voluntarily reduces hours of employment below 30 hours per week without good cause. BEM 233B, p. 4.

For the first occurrence, the Department disqualifies the person for one month or until compliance, whichever is longer. BEM 233B, p. 6.

When a client has refused suitable employment, the Department holds a triage appointment/phone conference to determine good cause prior to the negative action period. BEM 233B, pp. 5-6. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with DHS. BEM 233B, p. 6. If the client does not participate in the triage meeting, the Department determines good cause for FAP based on information known at the time of the determination. BEM 233B, p. 6.

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. BEM 233B, p. 7. The Department investigates and determines good cause before deciding whether to imposing a disqualification. BEM 233B, p. 7. Good cause can include meeting a deferral; client unfit for the job; health or safety risk; illness or injury; religion; net income loss; no child care; no transportation; and other reasons listed in BEM 233B. BEM 233B, pp. 7-10.

Finally, a noncompliant person must serve a minimum one-month or six-month disqualification period unless one of the criteria for ending a disqualification early exists. BEM 233B, p. 10.

The Department ends the disqualification early if the noncompliant person either:

- Complies with work assignments for a cash program.
- Obtains comparable employment in salary or hours to the job which was lost. Meets a deferral reason other than unemployment benefit (UB) application/recipient.
- Leaves the group.

BEM 233B, pp. 10-11. If the person has met any of the criteria above after a disqualification has actually taken effect, restore benefits beginning the month after the noncompliant person reports meeting the criteria. BEM 233B, p. 11.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective [REDACTED], in accordance with Department policy.

First, the Department did not present evidence showing that Claimant's FAP benefits were reinstated and that her benefits increased to \$194 effective September 1, 2015 (i.e., Notice of Case Action). See BAM 220 (July 2015), p. 2. (Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action).

Second, the undersigned finds that Claimant was never in non-compliance in the first place. Claimant's application dated [REDACTED] does indicate that her employment is located at the school district. See Exhibit A, p. 6. Thus, the undersigned finds Claimant's testimony credible that her employment ended due to the summer recess. Policy states that the Department disqualifies non-deferred adults who were working when the person: voluntarily quits a job of 30 hours or more per week without good cause, or voluntarily reduces hours of employment below 30 hours per week without good cause. BEM 233B, p. 4. Claimant's employment ending due to the summer recess does not fall within any of the above non-compliance reasons; thus, the Department improperly disqualified Claimant from her FAP benefits effective [REDACTED], ongoing. See BEM 233B, pp. 1-12. As such, the Department will reinstate Claimant's FAP benefits effective [REDACTED] and remove the sanction (if not already completed).

MA application

In this case, Claimant applied for MA benefits on [REDACTED]. See Exhibit A, pp. 1-28. However, Claimant argued that she never received any correspondence regarding whether she was found eligible for MA coverage. The Department argued that it did process Claimant's MA application.

The Department determines eligibility and benefit amounts for all requested programs. BAM 105 (April 2015), p. 17. Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2014), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (January 2015), p. 15. For MA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these

benefits programs for processing times, which are described as follows: 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team (MRT). BAM 115, p. 16.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. Medicaid denials receive a DHS-1606, Health Care Coverage Determination Notice. BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 24. The Department sends the DHS-1606 detailing Medicaid approvals. BAM 115, p. 24.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly processed Claimant's MA application dated [REDACTED], [REDACTED]. The Department failed to provide sufficient evidence to show that it properly processed Claimant's eligibility for MA benefits (i.e., Health Care Coverage Determination Notice or Eligibility Summary showing active coverage). The undersigned reviewed the evidence packet and found no evidence indicating that the Department properly processed Claimant's MA application. As such, the Department will reprocess Claimant's MA application in accordance with Department policy. See BAM 105, pp. 17; BAM 110, pp. 4 and 19; and BAM 115, pp. 15-16 and 23-24.

DECISION AND ORDER

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 (i) the Department failed to satisfy its burden of showing that it properly calculated Claimant's FAP benefits effective [REDACTED]; (ii) the Department did not act in accordance with Department policy when it closed Claimant's FAP benefits effective [REDACTED]; and (iii) the Department failed to satisfy its burden of showing that it properly processed Claimant's MA application dated [REDACTED], in accordance with policy.

Accordingly, the Department's decision FAP and MA is **REVERSED**.

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-register and initiate reprocessing of Claimant's MA application dated [REDACTED];

2. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive in accordance with Department policy;
3. Begin recalculating the FAP budget for [REDACTED], ongoing, including whether she received any earned income in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from [REDACTED];
5. Remove Claimant's first FAP sanction from her case (if not already completed);
6. Reinstate Claimant's FAP case as of [REDACTED] (if not already completed);
7. Begin recalculating the FAP budget for [REDACTED], ongoing, in accordance with Department policy (if not already completed);
8. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from [REDACTED], ongoing (if not already completed); and
9. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/3/2015**

Date Mailed: **9/3/2015**

EF / 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 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:

