

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017686
Issue No.: 3001; 3008
Agency Case No.: [REDACTED]
Hearing Date: November 18, 2015
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Petitioner'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 November 18, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistant Payment Worker.

ISSUES

Did the Department properly close Petitioner's Michigan Combined Application Project (MiCAP) – Food Assistance Program (FAP) benefits effective September 1, 2015?

Did the Department properly deny Petitioner's FAP application for the period of [REDACTED] [REDACTED]?

Did the Department properly calculate Petitioner's FAP allotment effective [REDACTED] [REDACTED]?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of FAP benefits under the MiCAP program, which closed effective [REDACTED] (under a different case number: [REDACTED]). See Exhibit A, pp. 14-18.
2. As a result of Petitioner no longer receiving FAP benefits under the MiCAP program, he reapplied for FAP benefits on or around [REDACTED]. See Exhibit A, p. 4.

3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that he was denied FAP benefits for the period of [REDACTED] because he received FAP benefits for this month under a different case number. See Exhibit A, pp. 4-5.
4. On [REDACTED], the Notice of Case Action also informed Petitioner that he was approved for FAP benefits in the amount of \$28 for [REDACTED], and approved for \$21 for [REDACTED]. See Exhibit A, pp. 4-5.
5. The Department recalculated Petitioner's FAP benefits and increased his allotment as follows: (i) \$61 [REDACTED] (ii) \$56 for [REDACTED] and (iii) \$99 for [REDACTED], ongoing. See Exhibit A, p. 8.
6. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, 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.

MiCAP program

Petitioner was an ongoing recipient of FAP benefits under the MiCAP program, which closed effective [REDACTED] (under a different case number: [REDACTED]). See Exhibit A, pp. 14-18. Based on Petitioner's testimony, the undersigned concludes that he filed the current hearing request to dispute the closure of his MiCAP program.

Additionally, the Department was unable to provide sufficient testimony or evidence why Petitioner's MiCAP program had closed. Petitioner testified that he believed his MiCAP program expired in August 2015 because he never was able to renew the program.

The Michigan Combined Application Project (MiCAP) is a Food Assistance demonstration project approved by the Food and Nutrition Service (FNS). BEM 618 (July 2014), p. 1. MiCAP is a series of waivers that allows DHS to issue Food

Assistance Program (FAP) benefits to Supplemental Security Income (SSI) individuals who qualify for this program. BEM 618, p. 1. The program is administered by the centrally located MiCAP unit. BEM 618, p. 1. Final eligibility determination and redeterminations are the responsibility of the MiCAP unit. BEM 618, p. 1. All eligibility factors in this item must be met. BEM 618, p. 1.

The targeted MiCAP population is SSI individuals with the following characteristics:

- Age 18 or older.
- Receives SSI income and no other type of income.
- Meets the Social Security Administrations (SSA) definition of independent living (Living arrangement code A).
- Resides in Michigan.
- Purchases and prepares food separately.
- Is not currently active in the Food Assistance Program.

BEM 618, p. 1.

A simplified application form, DHS-513 is used for MiCAP. BEM 618, p. 1. The MiCAP unit determines eligibility for MiCAP whenever it receives a DHS-513. BEM 618, p. 2. The MiCAP unit registers the application and determines FAP eligibility at application and redetermination. BEM 618, p. 2. The MiCAP unit is responsible for several factors including running the MiCAP Application Report, completing redeterminations, etc...See BEM 618, p. 2.

Once an individual is determined eligible for MiCAP, eligibility will be for a 36-month benefit period. BEM 618, p. 2. A redetermination of eligibility will be completed every 36 months. BEM 618, p. 2. Food Assistance benefits continue for the duration of the benefit period unless an individual is no longer eligible for MiCAP or fails to return the DHS-542, MiCAP Redetermination Form. BEM 618, pp. 2-3. Note, eligibility factors are the same at application and redetermination. BEM 618, pp. 2-3.

The amount of FAP benefits MiCAP individuals receive is determined by their total shelter expenses, (shelter plus heat and utility expenses). BEM 618, p. 3. If an individual's total shelter expenses are below \$1,000, the FAP benefit is \$171 per month. BEM 618, p. 3. If the total shelter expenses are equal to or exceed \$1,000, the benefit amount is \$185 per month. BEM 618, p. 3.

Once eligible, eligibility continues unless an individual:

- Loses SSI eligibility.
- Moves out of state.
- Is ineligible due to a change in the SSA living arrangement code.
- Dies.
- Becomes a mandatory member of another active FAP case.

Exception: An adult child, age 18-22, who meets the criteria under MiCAP Targeted Population may receive MiCAP benefits even if living with parents.

BEM 618, p. 4.

When a MiCAP individual applies for FAP at a DHS local office, contact the MiCAP specialist to request case closure. BEM 618, p. 4. The MiCAP phone number is 1-877-416-4227. BEM 618, p. 4. The DHS local offices may refer an individual to MiCAP. BEM 618, p. 4. BEM 618 provides where a MiCAP Application (DHS-513) can be sent via mail or faxed to the MiCAP unit. See BEM 618, p. 4.

Yes, the undersigned understands that the Department worker present for the hearing does not handle MiCAP cases and such cases are handled by the MiCAP unit. See BEM 618, p. 2. However, the MiCAP program is administered by the Michigan of Department of Health and Human Services (MDHHS). In fact, there is actual BEM 618 policy that directs the Department how to handle this program. See BEM 618, pp. 1-5. As such, the undersigned has jurisdiction to address Petitioner's closure.

The local office and client or Authorized Hearing Representative (AHR) will each present their position to the Administrative Law Judge (ALJ), who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (April 2015 and October 2015), p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether MDDHS policy was appropriately applied. BAM 600, pp. 37-38.

In the present case, the burden is on the Department to show why Petitioner's MiCAP program closed. See BAM 600, pp. 35-38. However, the Department failed to present any evidence on how Petitioner's MiCAP program had closed. Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MiCAP program effective [REDACTED]. BAM 600, pp. 35-38 and BEM 618, pp. 1-5. The Department will redetermine Petitioner's FAP eligibility, including the MiCAP program in accordance with Department policy.

FAP benefits for August 2015

As a result of Petitioner no longer receiving FAP benefits under the MiCAP program, he applied for FAP benefits on or around [REDACTED]. See Exhibit A, p. 4. It should be noted that Petitioner did receive FAP benefits under the MiCAP program for August of 2015. See Exhibit A, pp. 14-18. On September 9, 2015, the Department sent Petitioner a Notice of Case Action notifying him that he was denied FAP benefits for the period of [REDACTED] because he received FAP benefits for this month under a different case number. See Exhibit A, pp. 4-5.

Concurrent receipt of benefits means assistance received from multiple programs to cover a person's needs for the same time period. BEM 222 (July 2013), p. 1. Benefit

duplication means assistance received from the same (or same type of) program to cover a person's needs for the same month. BEM 222, p. 1. For example, FIP from Michigan and similar benefits from another state's cash assistance program. BEM 222, p. 1. As specified in the balance of BEM 222, benefit duplication is prohibited except for MA and FAP in limited circumstances. BEM 222, p. 1. A person cannot be a member of more than one FAP Certified Group (CG) in any month. BEM 222, p. 3.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it properly denied Petitioner's FAP benefits for the period of [REDACTED]. The evidence established that Petitioner already received FAP benefits under the MiCAP program for August 2015 under a different case number in the amount of \$171. See Exhibit A, pp. 14-18. As such, when Petitioner reapplied for benefits in August of 2015, he was ineligible for benefits in that month due to the receiving FAP benefits under the MiCAP program. See Exhibit A, pp. 14-18 and BEM 222, pp. 1-3.

FAP benefits for [REDACTED], ongoing

Petitioner also disputed the amount of his FAP allotment. See Exhibit A, pp. 2-3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying him that he was approved for FAP benefits in the amount of \$28 for [REDACTED], and approved for \$21 for [REDACTED]. See Exhibit A, pp. 4-5. The Department recalculated Petitioner's FAP benefits and increased his allotment as follows: (i) \$61 for [REDACTED] (ii) \$56 for [REDACTED]; and (iii) \$99 for [REDACTED], ongoing. See Exhibit A, p. 8.

During the hearing, though, the Department failed to provide any FAP budgets to show the undersigned whether they were properly calculated. As such, the Department did not satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective [REDACTED], ongoing, in accordance with Department policy. BAM 600, pp. 35-38.

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 acted in accordance with Department policy when it closed Petitioner's FAP benefits under the MiCAP program effective [REDACTED]; (ii) acted in accordance with Department policy when it when it properly denied Petitioner's FAP benefits for the period of [REDACTED]; and (iii) the Department did not satisfy its burden of showing that it properly calculated Petitioner's FAP allotment effective [REDACTED], ongoing, in accordance with Department policy.

Accordingly, the Department's FAP decision is **AFFIRMED IN PART** with respect to FAP allotment from [REDACTED] and **REVERSED IN PART** with

respect to the MiCAP case closure effective [REDACTED], and FAP benefits calculation effective [REDACTED].

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. Redetermine Petitioner's FAP eligibility, including the MiCAP program, effective [REDACTED];
2. Provide Petitioner with the most beneficial FAP program he is eligible to receive for [REDACTED], ongoing;
3. Issue supplements to Petitioner for any FAP benefits he was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.



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

Date Signed: **11/20/2015**

Date Mailed: **11/20/2015**

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:

