

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018674
Issue No.: 2001, 3008, 7002
Agency Case No.: [REDACTED]
Hearing Date: December 07, 2015
County: Oakland-District 3
(Southfield)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on December 7, 2015, from Southfield, Michigan. Petitioner represented herself and appeared with her mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly provide Petitioner and her son with Medicaid (MA) coverage?

Did the Department properly provide Petitioner and her son with State SSI Payment (SSP) benefits?

Did the Department properly calculate and issue Petitioner's 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. Petitioner was an ongoing recipient of FAP benefits with a FAP group consisting of her and her son.
2. Petitioner receives monthly child support.

3. In February 2015, Petitioner was approved for \$395 in gross monthly Supplemental Security Income (SSI) benefits (Exhibit C).
4. In March 2015, Petitioner's adult son was approved for \$733 in gross monthly SSI benefits (Exhibit B).
5. On [REDACTED], Petitioner submitted a redetermination identifying her and her son's income (Exhibit A, pp. 1-7).
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FAP benefits were decreasing to \$16 monthly for the period [REDACTED] to September 30, 2016 (Exhibit F).
7. On [REDACTED] Petitioner filed a request for hearing disputing the Department's actions concerning her FAP case and concerning her and her son's MA and "quarterly checks."

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).

Petitioner requested a hearing disputing the calculation and issuance of her FAP benefits and concerning the Department's failure to activate her and her son's MA cases and failure to process their "quarterly checks." At the hearing, it was confirmed that the "quarterly checks" referenced by Petitioner concerned the quarterly SSP payments made by the State to SSI recipients.

MA and SSP

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 State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The evidence at the hearing established that Petitioner and her son began receiving SSI, Petitioner in February 2015 and her son in March 2015 (Exhibits B and C). SSI recipients who are Michigan residents and cooperate with third-party resource liability requirements are automatically eligible for MA. BEM 150 (April 2015), p. 1. The Department issues SSP on a quarterly basis to SSI recipients who are in independent living arrangements or in the household of another. BEM 660 (July 2013), p. 1.

In this case, the Department acknowledged that MA for SSI recipients had not been activated and SSP benefits had not been issued to Petitioner or her son. The Department provided no explanation for its failure to provide such benefits. Accordingly, the Department did not act in accordance with Department policy when it failed to activate Petitioner's and her son's MA cases or to issue SSP benefits to them.

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.

The Department presented a FAP net income budget showing the calculation of Petitioner's FAP benefits which was reviewed with Petitioner at the hearing (Exhibit E). The FAP budget showed that the only income received by the household was \$1461 in unearned income, which the Department testified was the sum of Petitioner \$395 gross monthly SSI, her son's \$733 gross monthly SSI, and Petitioner's gross monthly \$333 child support income. The sum of these income sources total \$1461, as determined by the Department. However, the child support consolidated report showed that, in addition to the \$333 in monthly direct child support Petitioner received for one son that the Department budgeted, she also received \$25 in monthly direct child support for another child, which the Department had not been budgeting (Exhibit D). The Department counts all court-ordered direct support as unearned income unless any portion is court-ordered or legally obligated to be paid directly to a creditor or service provider. BEM 503 (October 2013), p. 8. In this case, Petitioner acknowledged receiving child support for both children. Therefore, the Department did not act in accordance with Department policy when it failed to budget all of the unearned income received by the household.

The FAP net income budget deductions to gross income were also reviewed with Petitioner. Because Petitioner and her son receive SSI, they are senior/disabled/veteran (SDV) members of the FAP group. See BEM 550 (October 2015), pp 1-2. FAP groups with two SDV members and no earned income are eligible for deductions from the group's total income for dependent care, excess shelter, child support expenses of the group and verified, monthly out-of-pocket medical expenses that exceed \$35. BEM

554 (October 2015), p. 1; RFT 255 (October 2015), p. 1. Two-person FAP groups are also eligible for a \$154 standard deduction to income. RFT 255, p. 1.

Petitioner confirmed that neither she nor her son had day care, child support expenses or out-of-pocket medical expenses, as shown on the budgets. The net income budgets show the \$154 standard deduction available to Petitioner's group. Because Petitioner did not have any shelter or utility expenses, she had no excess shelter deduction available to her. BEM 556 (July 2013), pp. 4-5. The evidence presented showed that the Department properly calculated the deductions to Petitioner's income but improperly calculated her gross income.

At the hearing, Petitioner also expressed concerns that the Department shortened her certification period, making the reduced benefits for the new certification period effective [REDACTED], rather than [REDACTED]. Redeterminations are required at least every 12 months, with the redetermination date set according to benefit periods. BAM 210 (October 2015), pp. 1-2. Redeterminations may be scheduled early, but if a redetermination is scheduled early, FAP benefits cannot be terminated prior to the end of the benefit period for failure to complete the redetermination process. BAM 210, p. 8. FAP cases with unstable circumstances may be assigned a three-month benefit period. BAM 210, p. 2.

In this case, the [REDACTED] Notice of Case Action notified Petitioner that her FAP benefits were decreasing effective [REDACTED] 5 for a certification period running from [REDACTED] to [REDACTED]. However, the redetermination was sent to Petitioner on [REDACTED] with an [REDACTED] due date and interview date, indicating a certification period that expires [REDACTED]. See BAM 210, p. 17. Furthermore, the Department acknowledged that prior to the redetermination, documentation in Petitioner's case showed that Petitioner's certification period expired [REDACTED]. The Department provided no explanation for changing the certification period in Petitioner's case. Under the facts presented, the Department did not act in accordance with Department policy when it processed Petitioner's FAP redetermination and changed the certification period. Petitioner was eligible for FAP benefits in October 2015 in the amount she was receiving before the redetermination was processed.

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 (i) failed to activate Petitioner's and her son's MA cases, (ii) failed to issue SSP benefits to Petitioner and her son, and (iii) failed to properly calculate her FAP benefits following the redetermination and certify the change effective [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision 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. Active Petitioner and her son's MA cases for SSI recipients from the date of SSI receipt and provide them with ongoing MA coverage they are eligible to receive;
2. Issue supplements to Petitioner and her son for SSP benefits they were eligible to receive but did not from the date of SSI eligibility ongoing;
3. Issue a FAP supplement to Petitioner for October 2015 in an amount equal to the monthly allotment she received prior to the redetermination processing and the amount she actually received for October 2015 FAP benefits;
4. Recalculate Petitioner's FAP benefits for [REDACTED] ongoing; and
5. Notify Petitioner in writing of its FAP decision for [REDACTED] ongoing.



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

Date Signed: **12/16/2015**

Date Mailed: **12/16/2015**

ACE / 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:

