

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-000829
Issue No.: 2001; 3002
Case No.: ██████████
Hearing Date: February 18, 2015
County: WAYNE-DISTRICT 57
(CONNER)

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. After due notice, a telephone hearing was held on February 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist; and ██████████, Assistant Payment Specialist.

ISSUES

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective January 1, 2015?

Did the Department properly close Claimant's Medical Assistance (MA) – Healthy Michigan Plan (HMP) effective December 1, 2014?

Did the Department properly calculate Claimant's MA - Group 2 Caretaker Relatives (G2C) coverage with a monthly \$89 deductible for December 1, 2014, 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 was an ongoing recipient of FAP benefits.
2. Claimant is an ongoing recipient of MA benefits.

3. On September 22, 2014, Claimant alleged that she notified the Department via FedEx mail that her self-employment income had ended and that she began employment on September 18, 2014. Claimant provided a copy of the FedExOffice receipt. See Exhibit A, p. 9.
4. The Department indicated that Claimant's Child Development and Care (CDC) program benefits were audited and Claimant was asked to provide income verifications. See Exhibit 1, p. 1.
5. On November 12, 2014, the Department caseworker alleged that she was first notified via telephone by the Claimant that she no longer had self-employment income and that she was employed. During this conversation, the Department requested verifications of Claimant's employment.
6. On November 12, 2014, the Department sent Claimant a Verification Checklist (VLC), which requested verification of Claimant's employment. See Exhibit 1, p. 7. The verification was due back by November 24, 2014. See Exhibit 1, p. 7.
7. On November 12, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) informing her she was eligible for MA benefits (G2C) with a monthly \$89 deductible effective December 1, 2014, ongoing. See Exhibit 1, pp. 15-19. Furthermore, effective December 1, 2014, Claimant's MA – HMP benefits closed.
8. Claimant failed to submit the verifications before the VCL due date.
9. On December 1, 2014, the Department sent Claimant a Semi-Annual Contact Report (semi-annual), which was due back by January 31, 2015. See Exhibit A, pp. 10-11.
10. On December 5, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective January 1, 2015, ongoing, for failure to provide the employment verification. See Exhibit 1, pp. 20-23.
11. On December 15, 2014, Claimant indicated she mailed the completed semi-annual to the Department with paystubs attached. Claimant provided a copy of the semi-annual sent. See Exhibit A, pp. 10-11.
12. On January 16, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 4-5.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, 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 Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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

FAP benefits

On September 22, 2014, Claimant alleged she notified the Department via FedEx mail that her self-employment income had ended and that she began employment on September 18, 2014. Claimant provided a copy of the FedExOffice receipt. See Exhibit A, p. 9. The Department indicated that it never received the FedEx mail. Rather, on November 12, 2014, the Department caseworker testimony appeared to indicate that she was first notified via telephone by the Claimant that she no longer had self-employment income and that she was employed. During this conversation, the Department requested verifications of Claimant's employment. On November 12, 2014, the Department sent Claimant a VCL, which requested verification of Claimant's employment. See Exhibit 1, p. 7. The verification was due back by November 24, 2014. See Exhibit 1, p. 7. Claimant failed to submit the verifications before the VCL due date. Claimant testified that she was unable to access her paystubs online and also had ongoing issues with her housing conditions.

On December 1, 2014, the Department sent Claimant a semi-annual, which was due back by January 31, 2015. See Exhibit 1, pp. 10-11.

On December 5, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective January 1, 2015, ongoing, for failure to provide the employment verification. See Exhibit 1, pp. 20-23.

On December 15, 2014, Claimant indicated she mailed the completed semi-annual to the Department with paystubs attached. Claimant provided a copy of the semi-annual sent. See Exhibit A, pp. 10-11. The Department testified that it did not receive the semi-annual on December 15, 2014. Instead, the Department indicated it received the paystubs from the Claimant via e-mail on January 27, 2015 and received the semi-annual on January 29, 2015. See Exhibit A, pp. 1-8 and 10-11.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (October 2014), p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 11. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 11. It is always the day before the negative action is effective. BAM 220, p. 11. A pending negative action occurs when a negative action requires timely notice based on the eligibility rules in this item. BAM 220, p. 11. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220, p. 12.

If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the negative action. BAM 220, p. 12. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, pp. 12-13. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 13.

In the present case, the Notice of Case Action indicated the timely hearing request is on or before December 16, 2014. BAM 220, p. 11 and Exhibit 1, p. 21. Thus, December 17, 2014, is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 11. Claimant indicated that she mailed the completed semi-annual to the Department with paystubs attached on December 15, 2014. The Department testified that it did not receive the paystubs on or around December 15, 2014. Nevertheless, this Administrative Law Judge (ALJ) finds that the Claimant credibly testified that she submitted the paystubs on December 15, 2014. Claimant's credibility is supported by her providing proof that she did mail a semi-annual signed on December 15, 2014. See Exhibit A, pp. 10-11. Therefore, Claimant met the requirement before the December 17, 2014 negative action effect date. BAM 220, p. 12. Because the Claimant submitted the VCL requirements before the December 17, 2014, negative action date, the Department improperly closed Claimant's FAP benefits effective January 1, 2015. The Department should have deleted the negative action and run her FAP eligibility. See BAM 220, pp. 12-13.

It should also be noted that Claimant provided credible testimony that she originally notified the Department of her change from self-employment to employment on September 22, 2014. Even though the Department testified it did not receive the FedEx correspondence, Claimant provided a copy of the FedEx receipt. See Exhibit A, p. 9. This supports Claimant's credibility that she notified the Department of her employment

on September 22, 2014. For FAP cases, 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, p. 6. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2014), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. As such, the Department would have become aware of her earned income changes in or around late September to early October of 2014. Because the Department would have become aware her employment earnings changes on or around late September to early October of 2014, it should have sent a VCL back during this time period requesting verification of her paystubs, if necessary. See BAM 130, p. 3 and BAM 220, p. 6.

MA benefits

On January 16, 2015, Claimant filed a hearing request, protesting the closure of MA benefits. See Exhibit 1, p. 5. Claimant testified that she disputed the closure of her MA – HMP benefits and her MA - G2C deductible amount.

On November 12, 2014, the Department sent Claimant a determination notice informing her she was eligible for MA benefits (G2C) with a monthly \$89 deductible effective December 1, 2014, ongoing. See Exhibit 1, pp. 15-19. Furthermore, effective December 1, 2014, Claimant's MA – HMP benefits closed. The Department's testimony appeared to indicate that because it did not receive verification of her employment income, the Department budgeted Claimant's MA eligibility based on the income it already had in its system. As such, this resulted in Claimant's HMP benefits closing and converting her MA eligibility to a deductible program.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (October 2014), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1.

The Medicaid program is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI) - related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105, p. 1. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BEM 105, p. 1.

For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105, p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. BEM 105, p. 1.

Persons may qualify under more than one MA category. BEM 105, p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The most beneficial category may change when a client's circumstances change. BEM 105, p. 2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2.

HMP is considered a MAGI related category. Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 4.

Available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

The HMP provides health care coverage for individuals who:

- Are 19-64 years of age
- Have income at or below 133% of the federal poverty level under the MAGI methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

Medicaid Provider Manual, *Michigan Department of Community Health*, January 2015, p. 453.

Available <http://www.mdch.state.mi.us/dch-medicaid/manuals/medicaidprovidermanual.pdf>.

All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 453.

Additionally, the local office and client or Authorized Hearing Representative (AHR) will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (January 2015), p. 35. Both the local office and the client or AHR must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 35. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 37.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly closed Claimant's MA – HMP benefits and properly calculated Claimant's MA – G2C coverage. See BAM 600, pp. 35-37.

First, the Department failed its burden to show that Claimant was not eligible for HMP benefits. The Department failed to present any evidence or testimony to show that her income did not meet the HMP requirements. The Department did not present any of the alleged income that resulted in her benefits converting to a deductible.

Second, the Department failed to present any budget to show that it properly calculated Claimant's G2C monthly deductible. As such, the Department also failed its burden to show that it properly calculated Claimant's MA – G2C deductible.

Accordingly, the Department will redetermine Claimant's MA eligibility for December 1, 2014, ongoing, including her MA eligibility for HMP benefits.

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 the Department (i) did not act in accordance with Department policy when it closed Claimant's FAP benefits effective January 1, 2015; and (ii) failed to satisfy its burden of showing that it properly closed Claimant's MA – HMP benefits effective December 1, 2014 and properly calculated Claimant's MA – G2C coverage effective December 1, 2014.

Accordingly, the Department's FAP and MA 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. Redetermine Claimant's MA eligibility (including HMP eligibility) for December 1, 2014, ongoing;
2. Issue supplements to Claimant's for any MA benefits she was eligible to receive but did not from December 1, 2014, ongoing;
3. Reinstate Claimant's FAP case as of January 1, 2015;
4. Recalculate the FAP budget for January 1, 2015, ongoing , in accordance with Department policy;

5. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2015, ongoing; and
6. Notify Claimant of its FAP and MA decision in accordance with Department policy.



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

Date Signed: **2/25/2015**

Date Mailed: **2/25/2015**

EJF / cl

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:

Response	Percentage
Yes, the U.S. should take action to protect the environment	85%
No, the U.S. should not take action to protect the environment	15%