

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

IN THE MATTER OF:

██████████
██████████████████
██████████

Reg. No.: 15-002030
Issue No.: 2011; 3011
Case No.: ██████████
Hearing Date: March 16, 2015
County: Wayne-District 18

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearing Facilitator/Eligibility Specialist, and ██████████, lead specialist with the Office of Child Support (OCS) who participated by 3-way telephone conference.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case due to child support noncooperation sanction?

Did the Department properly remove Claimant as a member of her Food Assistance Program (FAP) group due to a child support noncooperation sanction?

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 and MA benefits.
2. Claimant lives with her six children.
3. Claimant's son R receives gross monthly Supplemental Security Income (SSI) of \$733 and quarterly State SSI Payments (SSP) of \$42. Claimant's daughter R receives gross monthly SSI of \$733 and quarterly SSP of \$42.

4. On December 29, 2014, the Department sent Claimant a Notice of Case Action notifying her that, effective January 1, 2015, she was being removed from her FAP group because of noncooperation with child support reporting obligations and her FAP benefits would be reduced.
5. On January 30, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her FAP and MA cases.

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.

Claimant requested a hearing concerning her FAP and MA cases. The Department testified that Claimant was removed as a member of her FAP case because of her failure to comply with her child support reporting obligations. The December 29, 2014 Notice of Case Action informed Claimant that, as of January 1, 2015, the six children in her household were included in the FAP group but she was disqualified from the FAP group because of her child support sanction. Although the Department testified that Claimant's MA case was active and ongoing, the Department did not address Claimant's MA issue in its hearing summary and did not present any documentation in support of its testimony. Claimant testified that she had received notice that her MA case was closing because of noncooperation with child support reporting obligations. In light of these circumstances, Claimant's concerns regarding her MA case are addressed.

As a condition of FAP and MA eligibility, the custodial parent of a minor child must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom the parent receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2014), p. 1. Cooperation includes providing all known information about the absent parent. BEM 255, p. 9. Clients who do not cooperate with their child support reporting obligations are disqualified members of their FAP and MA groups. BEM 212 (July 2014), p. 8; BEM 255, p. 13.

OCS participated in the hearing and testified that, based on information Claimant had provided the Department and clarified on the record, Claimant was in compliance with her child support reporting obligations as of December 11, 2014. Because Claimant was in compliance with her child support reporting obligations as of December 11, 2014, and the compliance date is prior to the timely hearing request date based on the December 29, 2014 Notice of Case Action, Claimant would **not** be a disqualified from FAP or MA for January 2015 ongoing. See BEM 255, pp. 11, 15. Therefore, the Department erred in removing Claimant from her FAP group and closing her MA case.

During the hearing, the FAP net income budget showing the information used to calculate Claimant's FAP allotment was reviewed with Claimant. Claimant confirmed that the household's income consisted of monthly SSI and quarterly SSP received by two of her children. For FAP purposes, the \$42 SSP benefit every three months results in a monthly \$14 in unearned income. BEM 503 (July 2014), p. 33. Based on each child's receipt of \$733 in SSI and \$14 in SSP, the household's gross income was \$1494 as shown on the budget.

Claimant confirmed that the children received SSI based on a disability and that, although she had applied with the Social Security Administration for disability benefits, she was not yet approved. Because two children receive SSI, they are senior/disabled/veteran (SDV) member of Claimant's FAP group. See BEM 550 (February 2014), pp 1-2. For groups with one or more SDV members with no earned income, the following deductions are available from the group's total income:

- Standard deduction.
- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Verified, out-of-pocket medical expenses for the SDV member(s) that exceed \$35.

BEM 554 (October 2014), p. 1.

Based on Claimant's seven-person FAP group, Claimant was eligible for a \$220 standard deduction. RFT 255 (October 2014), p. 1. Claimant confirmed that she had

no day care expenses, no child support expenses, and no out-of-pocket medical expenses over \$35. Therefore, the budget properly shows no deductions for those items.

In calculating a client's excess shelter deduction, the Department considers the client's (i) monthly shelter expenses and (ii) the applicable utility standard for any utilities the client is responsible to pay. BEM 556, pp. 4-5. Claimant confirmed that she paid \$1000 monthly rent, as shown on the excess shelter deduction. The Department applied the \$553 mandatory heat and utility (h/u) standard, the most beneficial utility standard available to a client. BEM 554, pp. 14-20. Based on monthly rent of \$1000 and the \$553 mandatory h/u standard, the Department properly calculated that Claimant's excess shelter deduction is \$916.

When Claimant's \$1494 unearned income is reduced by the \$220 standard deduction and the \$916 excess shelter deduction, Claimant's net income is \$358, as shown on the budget. Claimant's FAP allotment is based on the group's net income and number of qualified group members. RFT 260 (October 2014). Although the Department properly calculated Claimant's net income, Claimant was improperly excluded as a qualified FAP group member. Because it used the incorrect FAP group size in determining the FAP allotment, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits for January 1, 2015 ongoing.

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 removed Claimant as a qualified member of her FAP group and closed her MA case.

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. Remove any child support disqualification applied to Claimant's record on or about November 25, 2014;
2. Add Claimant back as a qualified FAP group member as of January 1, 2015 ongoing;
3. Recalculate Claimant's FAP benefits for January 1, 2015 ongoing;

4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2015 ongoing; and
5. Reinstate Claimant's MA case as of January 1, 2015;
6. Provide Claimant with MA benefits she is eligible to receive from January 1, 2015 ongoing.



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

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

ACE / tlf

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 address climate change	95%
No, the U.S. should not take action to address climate change	5%