

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002662
Issue No.: 2007; 3008
Case No.: [REDACTED]
Hearing Date: March 23, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly apply medical expenses to Claimant's Medical Assistance (MA) spend down?

Did the Department properly determine the amount of Claimant'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. Claimant was a recipient of MA and FAP benefits.
2. Claimant filed a hearing request on [REDACTED] regarding "case changes."
3. On [REDACTED], the Department issued a Health Care Coverage Determination Notice, notifying Claimant that her MA case would close, effective [REDACTED], and that Claimant's Medicare Savings Program case would close, effective [REDACTED].

4. On [REDACTED], the Department issued a Notice of Case Action, stating that Claimant's FAP case would close, effective [REDACTED].
5. During the hearing, the Department representative acknowledged that the Department scanned Claimant's medical expenses into an incorrect case number.
6. During the hearing, the Department failed to substantiate Claimant's FAP allotment.

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.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial or expedited service.

In the present case, on [REDACTED], Claimant requested a hearing regarding "case changes." However, Claimant's hearing request was filed prior to the notices of [REDACTED], notifying Claimant of the closure of her MA and FAP cases. Therefore, this Administrative Law Judge does not have jurisdiction over the closure of Claimant's MA and FAP cases. However, the Administrative Law Judge does have jurisdiction over the level of FAP benefits. In this case, the Department failed to substantiate how it budgeted Claimant's FAP allotment.

Claimant stated at the hearing that her request for hearing included the issue that her health care provider was not being compensated. The Department representative acknowledged during the hearing that the Department scanned Claimant's medical expenses into an incorrect case number.

As to how far back the Department should review Claimant's FAP and MA cases, Department, BAM 600, p. 6 instructs:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Based on BAM 600, the Department should review Claimant's FAP and MA cases 90 days prior to Claimant's hearing request and 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 failed to satisfy its burden of showing that it acted in accordance with Department policy.

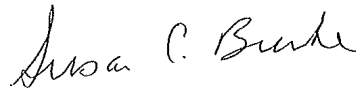
DECISION AND ORDER

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. Review Claimant's MA case for the time period of [REDACTED] and ongoing (90 days prior to Claimant's hearing request of [REDACTED]).
2. Apply allowable medical expenses to Claimant's MA deductible for the above time period, in accordance with Department policy.
3. Notify Claimant in writing of the Department's determination with regard to MA.

4. Re-determine Claimant's FAP benefits amount, effective [REDACTED], and ongoing.
5. Issue FAP supplements for any increased payment, in accordance with Department policy.



Susan C. Burke
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/27/2015**

Date Mailed: **3/27/2015**

SCB / 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 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:

