

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

**IN THE MATTER OF:**

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

Reg. No.: 15-005524  
Issue No.: 2001;3001  
Case No.: ██████████  
Hearing Date: May 13, 2015  
County: Wayne-District 17

**ADMINISTRATIVE LAW JUDGE: Zainab Baydoun**

**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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Case Manager.

**ISSUE**

Did the Department properly process Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) 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 an ongoing recipient of FAP and MA benefits.
2. On February 18, 2015, an administrative hearing was held with respect to Claimant's FAP and MA benefits.
3. The Hearing Decision associated with the above referenced administrative hearing was mailed on February 19, 2015, and the Administrative Law Judge (ALJ) found that the Department did not act in accordance with Department policy when it determined Claimant's FAP allotment and MA eligibility. The ALJ ordered the Department to initiate certain actions with respect to Claimant's MA benefits.

4. The Department redetermined Claimant's family members' eligibility for MA and determined that Claimant and his two children were eligible for full coverage MA under the LIF program and that Claimant's wife was eligible only for emergency services MA benefits based on her status as an ineligible alien. (Exhibit A)
5. The Department recalculated Claimant's FAP budget and determined that Claimant's group size was three for FAP purposes and that Claimant's wife was ineligible for FAP based on her alien status.
6. The Department issued FAP supplements to Claimant that he was eligible to receive but did not, for the time period between August 1, 2014, and April 30, 2015. (Exhibit C)
7. On March 24, 2015, Claimant submitted a hearing request disputing the Department's actions.

### **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.

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.

In this case, Claimant requested a hearing disputing the Department's actions with respect to his FAP and MA benefits. Claimant testified that a prior hearing was held after which the ALJ ordered the Department to take action on his MA and FAP cases. A review of the Hearing Decision from the hearing held on February 18, 2015, establishes that the Department was ordered to (1) Redetermine MA eligibility for Claimant's individual family members, effective August 1, 2014, ongoing; (2) Redetermine

Claimant's group size for FAP, effective August 1, 2014; (3) Redetermine Claimant's FAP allotment, effective August 1, 2014, ongoing; (4) Notify Claimant in writing of the Department's determination regarding MA and FAP; and (5) Issue FAP supplements for any increased or missed payment.

At the hearing, the Department testified that it complied with the orders in the prior Hearing Decision and determined that Claimant and his two children were eligible for full coverage MA benefits under the LIF program from August 1, 2014, to current. The Department testified that because Claimant's wife was an ineligible alien, she was only eligible for emergency services MA. (Exhibit A). With respect to the FAP case, the Department stated that after it redetermined Claimant's FAP group size, it found that Claimant's FAP group size was three and that his wife was an excluded member of the group, as she is an ineligible alien. The Department presented evidence showing that it issued FAP supplements to Claimant for the missed FAP benefits since August 2014, ongoing. (Exhibit C). Claimant disputed the Department's position and the finding that his wife was only eligible for emergency services MA and that she was ineligible for FAP benefits.

To be eligible for full MA coverage, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2014), p. 2. Department policy provides that an individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible for ESO MA coverage only for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6.

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225, p. 1. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) are lawfully residing in the United States and disabled. BEM 225, pp. 3-4, 6-7, 9-11. For purposes of BEM 255, disabled means receiving SSI, RSDI, MA or Railroad Retirement benefits based on disability or blindness, a qualifying veteran or qualifying spouse or child of a veteran. BEM 255, pp. 10-11.

In this case, although Claimant's wife is a legal permanent resident, she has not been in the U.S. for five years, as Claimant testified she entered the U.S. three and a half years ago. There was no evidence presented that Claimant's wife's permanent resident card showed a class code of: RE, AS, SI, AM, or SQ. Claimant testified that his wife does not work outside the home, therefore, the SSC requirements has not been met. Claimant

also testified that although his wife has medical conditions, she has not been found disabled. Thus, Claimant's wife does not meet any of the criteria for FAP eligibility or for full coverage MA eligibility.

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 acted in accordance with Department policy when it processed Claimant's MA and FAP benefits.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.



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**Zainab Baydoun**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/20/2015**

Date Mailed: **5/20/2015**

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**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.

