

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 15-008719
Issue No.: 3004; 3007
Case No.: ██████████
Hearing Date: July 1, 2015
County: WAYNE-DISTRICT 41

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly implement and certify a previous Decision and Order regarding an administrative hearing held on July 28, 2014?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On June 17, 2014, Claimant filed a previous hearing request, protesting the imposition of a deductible on her Medical Assistance (MA) case and reduction of her Food Assistance Program (FAP) benefits. See Exhibit A, p. 9.
2. On July 28, 2014, an administrative hearing was held. See Exhibit A, p. 8.
3. On August 6, 2014, the Administrative Law Judge (ALJ) reversed the Department and sent a Decision and Order, which stated the following: (i) the Department shall determine the Claimant's earned income and shall prospect the income using the last 60-90 days of pay stub information; (ii) the Department shall determine the source of the unearned income used to calculate the unearned income, if any is found, accordingly; (iii) the Department shall issue a FAP supplement to the Claimant if any is due in accordance with Department policy; (iv) the Department shall notify the Claimant of its determination of her FAP benefit allotment as

determined in accordance with this Decision and Order; and (v) the Claimant's request for hearing regarding the imposition by the Department of a MA deductible is DISMISSED, as prior to the hearing the deductible was removed. See Exhibit A, pp. 10-11 (Reg. No. 14-005317).

4. The Department acknowledged that if failed to implement and certify the ALJ's Decision and Order.
5. On May 21, 2015 and June 11, 2015, Claimant submitted two hearing requests to compel DHHS to process the ALJ's original Decision and Order issued on August 6, 2014. See Exhibit A, p. 2 and Exhibit B, p. 2.

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.

As a preliminary matter, Claimant submitted two hearing requests to compel DHHS to process the ALJ's original Decision and Order issued on August 6, 2014. See Exhibit A, p. 2 and Exhibit B, p. 2. The undersigned will address both hearing requests in this single decision as both dispute the same issue.

All hearing decisions must be recorded in the Department's system, on the Hearing Restore Benefits screen. BAM 600 (July 2014), p. 40. Some hearing decisions require implementation by the local office. BAM 600, p. 40. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 40. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order

Certification, to the Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to properly implement and certify the Decision and Order mailed on August 6, 2014 (Reg. No. 14-005317). See BAM 600, pp. 40-42. During the hearing, the Department acknowledged that it failed to process the ALJ's original Decision and Order issued on August 6, 2014. It appeared that some supplements were provided (See Hearing Summary, Exhibit B, p. 1); however, the Department failed to present any documentary evidence of such supplements being issued (i.e., benefit summary inquiry or an eligibility summary) and Claimant argued that the Department failed to comply with the Decision and Order. Thus, the Department is ordered to implement and certify the Decision and Order mailed on August 6, 2014, from the previous administrative hearing (Reg. No. 14-005317), in accordance with Department policy.

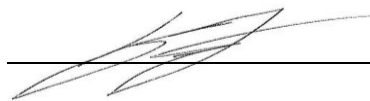
DECISION AND ORDER

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 did not act in accordance with Department policy when it failed to properly implement and certify the Decision and Order mailed on August 6, 2014 (Reg. No. 14-005317).

Accordingly, the Department's FAP 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. Implement and certify the Decision and Order mailed on August 6, 2014, from the previous administrative hearing (Reg. No. 14-005317), in accordance with Department policy.



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

Date Signed: **7/1/2015**

Date Mailed: **7/1/2015**

EJF/tm

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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]