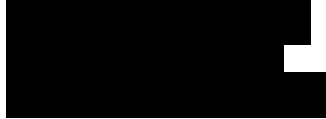


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No.: 14-016716  
Issue No.: 1004; 2001; 3008; 6000  
Case No.: [REDACTED]  
Hearing Date: January 26, 2015  
County: OAKLAND-DISTRICT 2  
(MADISON HTS)

**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 January 26, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]; and Claimant's Authorized Hearing Representative (AHR)/uncle/witness, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Rachel Smith, Assistant Payment Supervisor; and LaTanya Johnson, Eligibility Specialist. The Office of Child Support (OCS) was not present for the hearing.

**ISSUES**

Did the Department properly deny Claimant's Child Development and Care (CDC) program effective July 27, 2014?

Did the Department fail to process Claimant's alleged Cash application (Family Independence Program (FIP)) in July 2014?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$220 effective October 1, 2014, ongoing?

Did the Department properly provide Claimant with Medical Assistance (MA) coverage from October 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 is an ongoing recipient of FAP. See Exhibit 2, pp. 1-9.
2. On [REDACTED], 2014, Claimant applied for CDC benefits. See Exhibit 1, p. 1.
3. On August 12, 2014, the Department sent Claimant a redetermination regarding a review of her eligibility for MA benefits and it was due back by September 2, 2014. See Exhibit 1, pp. 16-21.
4. On August 19, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective July 27, 2014. See Exhibit A, pp. 4-5.
5. On September 19, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying her that her MA benefits would close effective October 1, 2014, due to the failure to submit a completed redetermination. See Exhibit 1, pp. 12-14.
6. On September 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP would be \$220 effective October 1, 2014. See Exhibit 1, pp. 4-5.
7. On November 20, 2014, Claimant and her AHR filed a hearing request, protesting her FIP application, MA case closure, CDC denial, and FAP allotment. See Exhibit 1, pp. 2-3.
8. On December 16, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled a hearing on January 6, 2015.
9. On January 6, 2015, Claimant submitted a request for adjournment and also indicated Claimant's witness as her AHR.
10. On January 7, 2015, the Supervising Administrative Law Judge sent both parties an Order Granting Adjournment.
11. On January 9, 2015, the MAHS sent Claimant a Notice of Hearing, which re-scheduled her hearing for January 26, 2015.
12. On January 26, 2015, both parties attended the hearing and it proceeded accordingly.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

☒ 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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

### **CDC application**

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2014 and October 2014), p. 6, provides in relevant part as follows:

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.]

In the present case, on August 1, 2014, Claimant applied for CDC benefits. See Exhibit 1, p. 1. On August 19, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective July 27, 2014. See Exhibit A, pp. 4-5. Claimant did not file a request for hearing to contest the Department's action

until November 20, 2014. See Exhibit 1, pp. 2-3. As such, Claimant's CDC hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. See BAM 600, p. 6.

It should be noted that Claimant's CDC denial reason was based her non-cooperation with OCS. See Exhibit 1, p. 15. As of today's hearing, the Department hearing record indicated she is now in compliance with OCS. See Exhibit 1, p. 1. Nevertheless, this ALJ lacks the jurisdiction to address Claimant's CDC hearing request for the above stated reasons.

### **FIP application**

In July 2014, the AHR alleged that Claimant applied for Cash assistance (FIP) benefits at a different DHS office (paper application) and never received any notice regarding the status of the application. The AHR argued that it disputed the Department's failure to process the Cash application submitted in July 2014. Claimant did not provide a copy of the alleged application.

In response, the Department testified that Claimant never applied for Cash assistance in July 2014. Instead, the Department testified that Claimant was denied for Cash (FIP) assistance on March 5, 2014, which the AHR did not dispute. See Exhibit 1, p. 1. The Department also provided Claimant's Eligibility Summary, which did not show any FIP application for July 2014. See Exhibit 2, p. 1. It should be noted that Claimant subsequently applied for Cash assistance on or around December 2014 and appeared to receive a denial notice on December 2, 2014. See Exhibit A, pp. 41-43. However, this is subsequent to the hearing request and this Administrative Law Judge (ALJ) lacks the jurisdiction to address the subsequent application. See BAM 600, pp. 4-6. Claimant can request another hearing to dispute the subsequent FIP denial. See BAM 600, pp. 4-6.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110 (July 2014), p. 4. The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2014), p. 14.

Upon immediate receipt of the FIP application, the specialist must run the FIP Eligibility Determination Group (EDG) in its system to timely generate an automated Partnership. Accountability. Training. Hope. (PATH) referral, as well as the DHS-4785, PATH Appointment Notice, to the client. While the specialist should run the FIP EDG immediately, this must be completed within five days of the application date. BAM 115, p. 15. The Department certifies FIP program approval or denial of the application within 45 days. BAM 115, p. 15. Note, the specialist must review the DHS-1171 for any potential deferral requests prior to running the FIP EDG. BAM 115, p. 15.

If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness to avoid receiving an overdue task in its system. BAM 115, p. 22. The Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 22. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

Based on the foregoing information, the evidence fails to establish that Claimant allegedly submitted a Cash application (FIP) in July 2014. The Department credibly testified that Claimant was denied FIP benefits in March 2014, which the AHR did not dispute. This supports the Department's argument that it reviewed Claimant's application history to inquire if she any other Cash applications in (i.e., July 2014). In fact, Claimant's Eligibility Summary did not show any FIP application for July 2014. See Exhibit 2, p. 1. Moreover, Claimant failed to provide any copy and/or proof of a Cash application in July 2014. As such, the Department acted in accordance with Department policy when it did not process Claimant's alleged FIP application in July 2014. See BAM 110, p. 4 and BAM 115, pp. 14-23.

### **FAP allotment**

As a preliminary matter, Claimant and/or the AHR disputed her decrease in FAP benefits from \$347 to \$220. A review of Claimant's Eligibility Summary discovered that the benefits decreased to \$220 effective October 1, 2014, ongoing. See Exhibit 2, p. 7. Also, it should be noted that it initially appeared that Claimant's previous non-compliance with the OCS affected the FAP allotment for July 2014. See Exhibit 2, p. 7 (Eligibility Summary indicated only a group size of one). However, this ALJ lacks the jurisdiction to address Claimant's FAP allotment for July 2014 as her hearing request is dated in November 2014. See Exhibit 1, pp. 2-3 and BAM 600, pp. 4-6. Also, at the start of hearing, Claimant only disputed her decrease in FAP benefits from \$347 to \$220. As such, this Administrative Law Judge (ALJ) will only address if whether the Department properly decreased Claimant's FAP benefits effective October 1, 2014, ongoing. See BAM 600, pp. 4-6.

On September 25, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would be \$220 effective October 1, 2014. See Exhibit 1, pp. 4-5.

It was not disputed that the certified group size is two and that no group members are senior/disabled/disabled veteran (SDV) members. The Department presented the October 2014 FAP budget for review. See Exhibit 1, p. 10. The Department calculated Claimant's gross earned income amount to be \$1,376, which the AHR did not dispute. Exhibit 1, p. 10 and see BEM 505 (July 2014), pp. 1-8. Then, Claimant's gross countable earned income is reduced by a 20% earned income deduction. See BEM 550 (February 2014), p. 1. This resulted in a post earned income amount of \$1,100 (\$1,376 minus \$276). See Exhibit 1, p. 10. The Department also properly applied the

\$154 standard deduction applicable to Claimant's group size of two. See RFT 255 (October 2014), p. 1 and see Exhibit 1, p. 10.

Next, the Department provided Claimant with zero for her dependent care deductions. See Exhibit 1, p. 10. The AHR argued that this calculation was improper and her monthly dependent care expenses was \$250. The AHR testified that Claimant reported that she was paying child care in the application on August 1, 2014. The Department did not provide Claimant's application for the hearing. In response, the Department argued it never received verification of Claimant's CDC expenses. Even though Claimant's CDC application hearing request is dismissed for lack of jurisdiction, it is necessary to refer to the application because it has an effect on the FAP budget (i.e., dependent care deduction). As a result of Claimant's CDC application, it sent Claimant a Verification Checklist (VCL) requesting proof of wages, CDC Provider Assignment, CDC Needed for Employment, and Home Rent. See Exhibit 1, pp. 22-23.

For groups with no senior/disabled/disabled veteran (SDV) member, the Department allows dependent care expenses. See BEM 554 (October 2014), p. 1. The Department allows an unreimbursed dependent care expense for a child or an incapacitated adult who is a member of the FAP group, when such care is necessary to enable a member of the FAP group to work. BEM 554, p. 7. This is the amount the FAP group actually pays out-of-pocket. BEM 554, p. 7. The expense does not have to be paid to be allowed. BEM 554, p. 7. The Department allows only the amount the provider expects the client to pay out-of-pocket. BEM 554, p. 7. Work includes seeking, accepting or continuing employment; or training or education preparatory to employment. BEM 554, p. 7. The Department verifies dependent care expenses at application, reported change and redetermination. BEM 554, p. 8. Verification sources include, but are not limited to, bills or written statement or collateral contact with the provider. BEM 554, p. 8.

Policy further indicates for the caseworker to especially be careful in following the above dependent care expense budgeting policy if the client's dependent care is reimbursed by the CDC or another agency or person. See BEM 554, p. 7.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's dependent care expenses in accordance with Department policy. The AHR credibly testified that Claimant notified the Department of the CDC expenses in the application dated August 1, 2014. The Department failed to provide a copy the CDC application to rebut Claimant's assertion that she reported the expenses. Furthermore, a review of Claimant's VCL request discovered that the Department never requested verification of Claimant's dependent care expenses. See Exhibit 1, pp. 22-23. Policy states that the Department verifies dependent care expenses at application, reported change and redetermination. See BEM 554, p. 8. Moreover, 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 (July 2014), p. 6. In this case, the Department became aware of the reported change in August 2014 and failed to request any verification of the expenses in accordance with Department policy. See BAM 220, p. 6 and BEM 554, pp.

7-8. The Department will recalculate Claimant's FAP benefits (including her dependent care expenses) effective October 1, 2014. See BAM 220, p. 6 and BEM 554, pp. 7-8. As stated above, Claimant disputed the decrease in FAP benefits effective October 1, 2014, as such, the Department will recalculate from that time period, ongoing.

It should be noted that the Department did not present Claimant's FAP – Excess Shelter Deduction budget (shelter budget) for October 2014. This would have also provided Claimant's housing expense and if Claimant received any heat/utility deductions. However, the Department did present Claimant's Notice of Case Action dated September 25, 2014, which did provide the above information. See Exhibit 1, pp. 4-5. Claimant's housing costs reflected \$800, which the AHR did not dispute. See Exhibit 1, p. 5. Moreover, the Department properly applied the heat/utility standard for the Claimant in the amount of \$553. RFT 255, p. 1 and Exhibit 1, p. 5.

### **MA benefits**

During the hearing, the AHR argued that Claimant's MA benefits had closed on or around July 2014, due to the non-compliance with the OCS. Again, though, this ALJ lacks the jurisdiction to address Claimant's MA closure for July 2014 as her hearing request is dated in November 2014. See Exhibit 1, pp. 2-3 and BAM 600, pp. 4-6.

Also, Claimant and the AHR argued that she did not receive MA benefits for September 2014. Later in the hearing, though, Claimant testified her medical closed in October 2014. This provided contradictory testimony as to when Claimant's MA benefits closed. Moreover, the Department provided evidence that it notified Claimant that her MA benefits would close effective October 1, 2014, due to the failure to submit a completed redetermination. See Exhibit 1, pp. 12-14. Based on the above information and evidence, this ALJ will only determine Claimant's MA eligibility for the time period of October 1, 2014, ongoing.

Furthermore, the Department testified that Claimant submitted an MA application in December 2014 (subsequent to the hearing request). The Department testified that it used the application as Claimant's redetermination and it reinstated her MA benefits from October 1, 2014, ongoing. Claimant's AHR acknowledged that she received MA benefits from December 1, 2014. As part of the hearing record, the Department submitted an Eligibility Summary, which showed a history of Claimant's MA benefits and it also appeared to show her child's MA history. See Exhibit 2, pp. 1-9. A review of Claimant's Eligibility Summary found multiple MA categories from which this ALJ could not distinguish. As such, it was unclear if Claimant's MA benefits had been properly reinstated. Moreover, from January 26-27, 2015, the Department attempted to submit a post-hearing correspondence, apparently pertaining to issues of a determination notice reinstating Claimant's MA benefits from October 1, 2014, ongoing; however, the hearing record had closed and this additional correspondence cannot be reviewed or considered.

The local office and client or 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. 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 reinstated Claimant's MA benefits effective October 1, 2014, ongoing. BAM 600, pp. 35-37. A review of Claimant's Eligibility Summary found multiple MA categories and this ALJ could not distinguish whether Claimant's ongoing MA coverage had been reinstated effective October 1, 2014. As such, the Department will reinstate Claimant's MA benefits effective October 1, 2014, ongoing (if not already completed).

### **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) acted in accordance with Department policy when it did not process Claimant's alleged FIP application in July 2014; (ii) did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits effective October 1, 2014; and (iii) failed to satisfy its burden of showing that it reinstated Claimant's MA benefits effective October 1, 2014, ongoing.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to FIP application processing and REVERSED IN PART with respect to the FAP allotment and MA closure.


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. Begin recalculating the FAP budget for October 1, 2014, ongoing, (including Claimant's dependent care expenses/deduction) in accordance with Department policy;
2. Reinstate Claimant's MA case as of October 1, 2014, ongoing (if not already completed);
3. Issue supplements to Claimant for any FAP and MA benefits she was eligible to receive but did not from October 1, 2014, ongoing (if not already completed for MA benefits); and



4. Notify Claimant of its FAP and MA decision in accordance with Department policy.

**IT IS ALSO ORDERED** that Claimant's CDC hearing request (dated November 20, 2014) is **DISMISSED**.



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

Date Signed: **1/30/2015**

Date Mailed: **1/30/2015**

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: Derrick Fields

  
Lori Duda

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D. Shaw

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