

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-52794
Issue No.: 3002;3015;2000
Case No.: ██████████
Hearing Date: July 15, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted on July 15, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ ██████████ Assistance Payment Worker, and ██████████ ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and process her Medical Assistance (MA) case?

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 benefits and MA.
2. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed.
3. On May 28, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$233.00 effective July 1, 2013 for a group size of three. (Exhibit 1).
4. On June 10, 2013, Claimant filed a hearing request disputing the Department's calculation of her FAP benefits and the type of MA she receives.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

MA

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Additionally, Claimant was an ongoing recipient of MA under a deductible based program. Claimant requested a hearing disputing the type of MA program she is receiving because she is pregnant and believes she is entitled to full coverage MA program. Soon after commencement of the hearing, the parties testified that they had reached a settlement concerning the disputed action with respect to MA. The Department acknowledged that Claimant notified the Department that she was pregnant on July 5, 2013. Consequently, with respect to MA, the Department agreed to do the following: (i) activate the appropriate MA benefits for Claimant for the period July 5, 2013 ongoing in accordance with Department policy; and (ii) notify Claimant of its decision in writing in accordance with Department policy.

As a result of this settlement, Claimant no longer wishes to proceed with the hearing with respect to MA. As such, it is unnecessary for this Administrative Law Judge to render a decision regarding the facts and issues in this case with respect to the MA issue.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich. Admin Code. Rule 400.3001 through Rule 400.3015.

Additionally, Claimant's FAP benefits were recalculated in connection with a redetermination. On her redetermination, Claimant listed [REDACTED] as someone who lives in her home. The Department determined that he was a mandatory group member and increased Claimant's group size to three. At the hearing, Claimant confirmed that [REDACTED] is the father of her child but stated that he is a live-in caretaker who pays rent and should not be considered a group member. Claimant stated that she pays [REDACTED] to be her live-in aide and that he simply works for her. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with

the group. BEM 212 (November 2012), p. 1. The Department testified that regardless of whether or not Claimant and ██████ purchase and prepare food together, because he is the father of Claimant's child and they are all living in the same house, he is a mandatory group member. As such, the Department properly determined that ██████ was a mandatory group member and that Claimant's group size is three.

Claimant also disputed the amount of FAP benefits that her group was approved for effective July 1, 2013. At the hearing, the budget summary from the May 28, 2013 Notice of Case Action was reviewed. (Exhibit 1). The Department concluded that Claimant had unearned income in the amount of \$1,749.00 which came from \$1,555.00 per month in Retirement, Survivors, Disability Insurance (RSDI) for herself and \$194.00 in RSDI for her daughter. Money earned from RSDI is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013). Claimant confirmed the amount of unearned income calculated by the Department was accurate.

The budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's group size of three and that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. Claimant also confirmed that her housing costs were \$850.00 (Exhibit 1); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. At the hearing, Claimant stated that she pays her adult daughter \$400.00 per month to care for her minor daughter and that she should be eligible for a dependent care expense. The Department is to allow 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. 6. In this case, Claimant's group does not have any earned income included in the FAP budget; therefore, the Department properly excluded the amount that Claimant pays for the care of her minor daughter.

A further review of the evidence establishes that the Department properly determined that Claimant had net income of \$976.00 and was eligible to receive FAP benefits in the amount of \$233.00. RFT 260 (December 2012), p. 9. Therefore, the Department did act in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's FAP decision is AFFIRMED.

DECISION AND ORDER


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department and Claimant have come to a settlement regarding Claimant's request for a hearing with regards to MA.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

1. Activate the appropriate MA benefits for Claimant for the period July 5, 2013 ongoing in accordance with Department policy; and

2. Notify Claimant of its decision in writing in accordance with Department policy.

It is further found that the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's FAP decision is AFFIRMED.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 25, 2013

Date Mailed: July 25, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant:
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

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