

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

IN THE MATTER OF:

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

Reg. No.: 2013-68976
Issue No.: 2000; 3003
Case No.: ██████████
Hearing Date: October 17, 2013
County: Oakland (04)

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 October 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective January 2013, 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. On January 18, 2013, Claimant applied for FAP benefits. See Exhibit 1.
2. Claimant's household group size is one and he is also a Supplemental Security Income (SSI) recipient.
3. Claimant reported medical expenses in the application, but did not report any shelter expenses. See Exhibit 1.
4. At the time of application, the Department did not send Claimant a Verification Checklist (VCL) to verify his medical expenses.

5. On April 26, 2013, Claimant submitted a Change Report form to the Department in which he reported that he moved effective April 10, 2013. See Exhibit 1.
6. The Change Report, though, did not list the amount of his shelter expenses.
7. At the time of the Change Report, the Department did not send a VCL to verify his shelter expenses.
8. On September 11, 2013, Claimant filed a hearing request, disputing his FAP and Medical Assistance (MA) benefits. Exhibit 1.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Preliminary matters

First, Claimant is also disputing his MA benefits. Exhibit 1. Claimant's is an SSI recipient. See Exhibit 1. Claimant is currently receiving Medicaid for disabled SSI recipient's coverage. See Exhibit 1. During the hearing, Claimant was disputing that he has had out-of-pocket expenses and he was not satisfied with his health plan coverage for June 2013 to September 2013. Claimant submitted a sales receipt as an example of the out-of-pocket expenses. See Exhibit A.

Based on the foregoing information, Claimant's MA hearing request is dismissed. This hearing cannot address Claimant's concerns regarding his out-of-pocket expenses and/or his non-satisfaction with his health plan. The Michigan Administrative Hearing System (MAHS) lists in BAM 600, the hearings that may be heard, i.e. denial of an application or reduction in the amount of program benefits or service. See BAM 600 (July 2013), pp. 3-4. However, Claimant's dispute does not fall within any of the categories. Thus, Claimant's MA hearing request is DISMISSED due to lack of jurisdiction. BAM 600, pp. 3-4.

Second, on June 11, 2013, Claimant attended a previous administrative hearing, which he was disputing his FAP case closure. At the previous hearing, Claimant disputed that he did not receive FAP benefits from October to December 2012. The Administrative Law Judge ruled to reinstate the FAP case for that time period and also redetermine/recalculate his FAP benefits for those benefit months. It was discovered during the hearing that Claimant is alleging the Department failed to act upon the Decision and Order. Thus, Claimant is disputing at this hearing the same issue above and also to recalculate benefits for October 2012, ongoing.

Based on the foregoing information, this hearing decision will not address Claimant's FAP benefits for October to December 2012. There is a previous hearing decision that already addressed Claimant's October to December 2012 FAP benefits months. This hearing decision cannot address an issue that has already been discussed and decided. However, this decision will state that a liaison for MAHS and/or DHS will be contacted to determine if whether the previous decision has been acted upon.

In summary, this hearing decision will only address Claimant's FAP benefits from January 2013, ongoing.

Medical Expenses

On January 18, 2013, Claimant applied for FAP benefits. See Exhibit 1. Claimant's household group size is one and he is also a SSI recipient. Claimant reported medical expenses in the application, but did not report any shelter expenses. See Exhibit 1. At the time of application, the Department did not send Claimant a VCL to verify his medical expenses. The Department agreed that no such verification has been sent at the time of application and had not been budgeted since opening. See Hearing Summary, Exhibit 1.

It should be noted that the Department sent a VCL for the medical expenses on September 17, 2013 and had a due date of September 27, 2013. The Department testified that it never received the medical expense verifications. However, this action of sending the VCL is subsequent to Claimant's September 11, 2013, hearing request. See Exhibit 1. The subsequent action will not be factored into this decision as this hearing only has jurisdiction for actions prior to the hearing request. See BAM 600, pp. 3-4.

It is not disputed that Claimant's FAP group size is one and Claimant is a senior/disabled/disabled veteran (SDV) member. For groups with one or more SDV members, the Department allows medical expenses that exceed \$35. BEM 554 (October 2012), p. 1.

At application and redetermination, the Department considers only the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. BEM 554, p. 6. The Department estimates an SDV person's medical

expenses for the benefit period. BEM 554, p. 6. The Department bases the estimate on all of the following:

- Verified allowable medical expenses.
- Available information about the SDV member's medical condition and health insurance.
- Changes that can reasonably be anticipated to occur during the benefit period.

BEM 554, p. 6.

The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 9. The Department verifies the reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 9.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (May 2012), p. 2. The Department uses the DHS-3503, Verification Checklist, to request verification. BAM 130, pp. 2-3.

Based on the foregoing information and evidence, the Department failed to process a VCL to verify his allowable medical expenses in accordance with Department policy. Claimant clearly indicated in his application that he has medical expenses. Moreover, the Department agreed that it failed to send a VCL for his medical expenses at the time of application. BEM 554 states that the Department verifies medical expenses at the time of application. See BEM 554, p. 6. Because the Department failed to request verification at the time of application, the Department improperly calculated his FAP benefits. Thus, the Department will request verification of Claimant's medical expenses and if obtained, it will recalculate his FAP benefits from January 2013, ongoing.

Shelter expenses

On April 26, 2013, Claimant submitted a Change Report form to the Department in which he reported that he moved effective April 10, 2013. See Exhibit 1. The Change Report, though, did not list the amount of his shelter expenses. At the time of the Change Report, the Department did not send a VCL to verify his shelter expenses.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 10. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, p. 10.

The Department verifies the shelter expenses at application and when a change is reported. BEM 554, p. 11. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554, p. 11. The

Department verifies the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 11.

At the hearing, Claimant testified that his monthly rent is \$475. Claimant also provided his residential lease, which confirmed his rent is \$475. See Exhibit A. The residential lease application is dated April 10, 2013. See Exhibit A.

Based on the foregoing information and evidence, the Department failed to process a VCL to verify his shelter expenses in accordance with Department policy. Claimant indicated in his change report that he had moved. See Exhibit 1. The Department verifies the shelter expenses at application and when a change is reported. BEM 554, p. 11. The Department testified that it did not send a VCL for his shelter expenses. Because the Department failed to request verification at the time of change report, the Department improperly calculated his FAP benefits.

However, the Department does not need to request verification of the shelter expenses as it was already provided at the time of hearing. Claimant's housing expense is \$475. See Exhibit A.

But, other changes must be reported within 10 days after the client is aware of them. BAM 105 (March 2013), p. 7. These include, but are not limited to address and shelter cost changes that result from the move. BAM 105, p. 7. The standard of promptness (SOP) is the maximum time allowed to complete a required case action. BAM 220 (November 2012), p. 5. 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, p. 5.

Additionally, changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 5. BAM 220 provides an example that is similar in this case:

Rich reports on 3-23 that he now has a shelter expense. Act on the change by 4-2. May's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Affect the April issuance if the action can be completed by 3-31.

BAM 220, p. 6.

In this case, Claimant reported on April 26, 2013, that he now has shelter expenses. The Department acts on the change by May 6, 2013. June's benefits will be the first month affected because the 10th day after the change is reported falls in the next benefit period. Thus, the Department will include and reflect Claimant's shelter expenses in the amount of \$475 for June 2013, 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 did not act in accordance with Department policy when (i) it failed to verify Claimant's allowable

medical expenses effective January 2013, ongoing; and (ii) failed to verify Claimant's shelter expenses effective June 2013, ongoing.

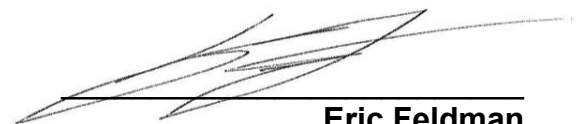
DECISION AND ORDER

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. Initiate verification of Claimant's allowable medical expenses, in accordance with Department policy;
2. Begin recalculating the FAP budget for January 2013, ongoing, subject to Claimant submitting verification of his allowable medical expenses;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from January 2013, ongoing;
4. Begin recalculating the FAP budget for June 2013, ongoing, to include Claimant's shelter expenses;
5. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from June 2013, ongoing; and
6. Notify Claimant in writing of its FAP decisions in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request is DISMISSED for lack of jurisdiction.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 24, 2013

Date Mailed: October 24, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]