

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

IN THE MATTER OF:

██████████
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████████████████████

██████. No.: 2014-1219
Issue No.: 3002
Case No.: ██████████
Hearing Date: October 31, 2013
██████████ Wayne (57)

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. After due notice, a telephone hearing was held on October 31, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Alice Gilmer, Family Independence Manager and Sabrina Hopkins, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and process her 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 June 25, 2013, the Department sent Claimant a Notice of Case Action informing her that effective August 1, 2013, her FAP benefits would be decreased to \$██████████ (Exhibit 1)
3. There was no negative action taken by the Department with respect to her MA benefits.
4. On September 23, 2013, Claimant submitted a hearing request disputing the Department's calculation of her FAP benefits.

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).

MA

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.

The Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July, 2013), p. 4, 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, Claimant submitted an application for MA benefits on May 2, 2013. On May 29, 2013, the Department sent Claimant a Notice of Case Action informing her that her application had been denied due to excess assets. (Exhibit 2, pp. 1-8). The next day, on May 30, 2013, the Department sent Claimant a second Notice of Case Action which informed Claimant that she was approved for MA benefits under a deductible based program and that she had a deductible of \$633.00 effective May 1, 2013. (Exhibit 2, pp. 9-15). At the hearing, Claimant stated that she was unaware that she had active and ongoing MA benefits and that she requested a hearing to check the status of her MA case.

The Department presented an eligibility summary which establishes that Claimant has had active and ongoing MA benefits since May 1, 2013 without any lapse in coverage and that her deductible amount remained the same at \$633.00. (Exhibit 3). Based on the testimony and other evidence presented at the hearing, there was no negative

action taken by the Department within the 90 days prior to Claimant submitting her hearing request and no issue left to be resolved regarding her MA case.

As such, Claimant's hearing request with respect to MA is **DISMISSED** for lack of jurisdiction. BAM 600, p 4

FAP

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.

Additionally, the gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp. 28.

At the hearing, the Budget Summary from the June 25, 2013, Notice of Case Action was reviewed. (Exhibit 1). The Department concluded that Claimant had unearned income of [REDACTED] which came from RSDI benefits. Claimant confirms that she receives this amount in gross monthly RSDI benefits; therefore, the Department properly calculated Claimant's unearned income.

The budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of one and that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibit 1);RFT 255 (October 2012), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs of \$179.00 which Claimant confirmed.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of [REDACTED]. BEM 554, p 1. The Department testified that no medical expenses were submitted to the Department, so the deduction was not applied in this case.

After further review of the evidence presented, the Department properly calculated Claimant's net income for FAP purposes to be \$ [REDACTED] and determined that she was eligible to receive [REDACTED] in FAP benefits monthly.

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 calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is DISMISSED and the Department's decision is AFFIRMED.



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

Date Signed: November 4, 2013

Date Mailed: November 5, 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

ZB/tm

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