

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

**IN THE MATTER OF:**

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

██████. No.: 2014-1480  
Issue No.: 2000;3002  
Case No.: ██████████  
Hearing Date: October 31, 2013  
County: Wayne (55)

**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 ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and process his 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. Claimant did not agree with the Department's calculation of his FAP benefits.
3. There was no negative action taken by the Department with respect to his MA benefits.
4. On September 23, 2013, Claimant submitted a hearing request disputing the Department's calculation of his FAP benefits and closure of his MA case.

## 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 requested a hearing because he believed that his MA case was closed and wanted to know the status of his case.

At the hearing, the Department testified that Claimant had active and ongoing MA benefits. In support of its testimony, the Department presented an eligibility summary which establishes that Claimant has had active and ongoing MA benefits under the Group 2 Caretaker program since July 1, 2013, without any lapse in coverage and that his deductible amount remained the same at \$██████0. (Exhibit 1). 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 his hearing request and no issue left to be resolved regarding his 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, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p.5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 8. The Department is to apply a 20% earned income deduction to Claimant's total earned income. BEM 550 (July 2013), p. 1

The Department testified that it has been prospectively budgeting the same amount of earned income since December 2012, when Claimant last completed a redetermination and submitted his paystubs. Although a Semi Annual Contact Report was completed by Claimant and submitted to the Department on May 16, 2013, which would have impacted Claimant's June 2013 FAP benefits, the Department testified that because Claimant checked the box that there were no changes to his income, the pay stubs previously submitted in 2012 were used. (Exhibit 4)

At the hearing, Claimant confirmed that he indicated that there were no changes to his income on the Semi Annual Contact Report; however, he stated that he submitted updated pay stubs with his May 2013 semi-annual that the Department should have considered. Because the Department credibly testified that the pay stubs were not received and because Claimant indicated that there were no changes to his income, the Department properly relied on the pay stubs submitted with Claimant's redetermination.

At the hearing, the FAP EDG Net Income Results budget was reviewed. (Exhibit 2). The Department concluded that Claimant had earned income of \$ [REDACTED]. The Department stated that it relied on the pay information from the pay stubs submitted with Claimant's redetermination, specifically considering: (i) [REDACTED]0 paid on September 14, 2012; (ii) [REDACTED]0 paid on September 21, 2012; (iii) \$ [REDACTED] paid on September 28, 2012; (iv) \$ [REDACTED] paid on October 5, 2012 and (v) [REDACTED] paid on October 12, 2012. (Exhibit 3). Claimant testified that he gets paid weekly.

After further review, the Department did not properly calculate Claimant's earned income, as the average of the paystubs relied on by the Department multiplied by the 4.3 standard multiplier does not result in earned income of \$ [REDACTED].

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

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 because of the errors in the calculation of Claimant's earned income, the Department did not act 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 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. Recalculate Claimant's FAP budget for June 1, 2013, ongoing, using the best available income information;
2. Issue supplements to Claimant for any FAP benefits he was entitled to receive but did not from June 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing.



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

Date Signed: November 5, 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]