

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

IN THE MATTER OF:

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Reg. No.: 2014-3359
Issue No.: 2018;3002;5013
Case No.: ██████████
Hearing Date: November 4, 2013
County: Oakland (04)

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 November 4, 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 process Claimant's benefits for State Emergency Relief (SER), Food Assistance Program (FAP) and Medical Assistance (MA)?

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 August 21, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her FAP benefits were being decreased to \$129.00 monthly. (Exhibit 3)
3. The Notice also informed Claimant that her MA and Medicare Savings Program (MSP) benefits were denied effective August 1, 2013. (Exhibit 3)
4. On July 31, 2013, an administrative hearing was held with regard to the processing of Claimant's April 1, 2013 applications for SER assistance with burial.

5. The July 31, 2013 Hearing Decision found that the Department did not act in accordance with Department policy when it processed Claimant's SER applications and ordered the Department to initiate certain actions with respect to those applications.
6. The Department did not comply with the orders of the Administrative Law Judge (ALJ) in the July 31, 2013 Hearing Decision.
7. On September 25, 2013, Claimant filed a hearing request disputing the Department's actions.

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).

SER

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, Claimant requested a hearing regarding the Department's failure to comply with a previous administrative hearing decision with respect to her application for SER with the burial of her spouse.

At the hearing on November 4, 2013, Claimant stated that she had not received any communications from the Department regarding the reprocessing of her SER application or the implementation of the prior hearing decision. The Department testified that because it was pursuing a Reconsideration of the ALJ's hearing decision, it did not implement the prior order of the ALJ. (Exhibit 1). After further review, there was no Reconsideration filed with respect to the July 31, 2013 hearing decision. Therefore, any failure to implement and comply with the July 31, 2013 hearing decision was not in accordance with Department policy.

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, Claimant requested a hearing disputing the decrease in her monthly FAP benefits effective October 1, 2013.

At the hearing, the FAP EDG Net Income Results budget for the October 1, 2013 benefit period was reviewed. (Exhibit 4). 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.

The Department concluded that Claimant had unearned income of \$ [REDACTED] which came from RSDI benefits. Claimant confirmed that she receives this amount in monthly RSDI benefits. Therefore, the Department properly calculated Claimant's unearned income.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of one and that the [REDACTED] standard heat and utility deduction available to all FAP recipients was used to determine the excess shelter deduction. (Exhibit 4);RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs in the amount of [REDACTED]0, which Claimant confirmed was correct.

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]0. 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 \$124.00 in FAP benefits monthly for a group size of one.

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 excess shelter and medical deduction, the Department did not act in accordance with Department policy when it closed Claimant's FAP case based on excess income.

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.

Claimant requested a hearing regarding a lapse in MA benefits for the month of September 2013. At the hearing, the Department presented an eligibility summary which establishes that Claimant was receiving MA benefits under the Terminated SSI program until August 31, 2013 and that effective September 1, 2013, her MA coverage changed to the G2S program and that she was approved for MA with a deductible in the amount of \$802.00. (Exhibit 2). Therefore, there was no lapse in Claimant's MA benefits and she was informed that if she incurred medical expenses for the month of September 2013, she would be eligible to have those expenses applied towards her

deductible for the month, provided that she submits them to the Department for processing.

Claimant raised additional concerns regarding her Medicare Savings Program (MSP) case. At the hearing, the Department presented a Notice of Case Action which informs Claimant that effective August 1, 2013, she was ineligible to receive MSP benefits under the ALMB program. (Exhibit 3).

Additionally, Medicare Savings Programs (MSP) are SSI-related MA categories and the Additional Low-Income Medicare Beneficiaries (ALMB) is category of the MSP. BEM 165 (October 2013), p. 1. ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. Eligibility exists when the criteria found in BEM 165 is met and when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in this item. BEM 165, p. 6. The monthly income limit for a group size of one is \$1,293.00. RFT 242 (April 2013), p. 1.

In this case, Claimant was an ongoing recipient of RSDI benefits in the amount of \$1,230.00 monthly. Because Claimant's income falls within the income limits for eligibility under the ALMB program and she is receiving MA benefits under the G2S program, it remains unclear after further review of the evidence presented why Claimant was determined to be ineligible for ALMB benefits of MSP. The Department was also unable to properly explain the reason for which Claimant was determined ineligible for MSP benefits. Therefore, the Department failed to satisfy its burden in establishing that it acted in accordance with Department policy when it determined Claimant was ineligible for MSP.

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 with respect to the calculation of Claimant's FAP benefits and with respect to Claimant's MA case. It is further found that the Department did not act in accordance with Department policy when it failed to comply with the prior SER hearing decision and did not act in accordance with Department policy in denying Claimant MSP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to FAP and MA and REVERSED IN PART with respect to SER and MSP..

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. Implement the Decision and Order of the ALJ in the July 31, 2013 hearing concerning Claimant's SER assistance with burial;
2. Determine Claimant's eligibility for MSP effective August 1, 2013, ongoing;
3. Issue supplements to Claimant for any MSP benefits that she was eligible to receive but did not effective August 1, 2013 ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: November 12, 2013

Date Mailed: November 12, 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.

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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]