

**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.: 2014-3785
Issue No.: 2000;3002;4000
Case No.: ██████████
Hearing Date: November 7, 2013
County: Wayne (18)

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 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Assistance Payment Supervisor.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA), State Disability Assistance (SDA) and Food Assistance Program (FAP) 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 MA, SDA and FAP benefits.
2. Claimant's MA case closed effective August 1, 2013 and her SDA case closed effective October 1, 2013 based on the determination that she was no longer disabled. (Exhibit 2)
3. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit 3)
4. Claimant reported that her boyfriend had moved into the home and was earning income.

5. On September 6, 2013, the Department sent Claimant a Verification Checklist (VCL) requesting that proof of Claimant's boyfriend's income for the last 30 days or a completed verification of employment be submitted by September 16, 2013. (Exhibit 4)
6. On September 23, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$16.00 monthly for a group size of two. (Exhibit 7)
7. On October 4, 2013, Claimant submitted 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).

MA/SDA

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

On July 11, 2013, the Department sent Claimant a Notice of Case Action informing her that effective August 1, 2013, her MA benefits under the Freedom to Work (FTW) program would be terminated on the basis that she was determined to be not disabled. (Exhibit 2, pp. 1-6). On August 26, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her SDA benefits would be terminated on the basis that she was determined to be not disabled. (Exhibit 2, pp. 7-11).

Upon further review, it was discovered that on September 3, 2013, Claimant submitted a hearing request disputing the closure of her MA and SDA cases and disputing the determination that she was not disabled. This hearing request was in connection with Registration Number 2013-66685. Although a date has not yet been set for the hearing, the issues regarding the MA and SDA closure will be addressed at a future hearing and placed on the disability docket. Therefore, because Claimant had previously submitted a hearing request disputing the closure of her MA and SDA cases and the disability

determination, the October 4, 2013 hearing request with respect to MA and SDA is DISMISSED.

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, in connection with a redetermination, Claimant's eligibility for FAP was reviewed. Claimant provided the Department with verification of her boyfriend's earned income, as he was now a FAP group member. The Department testified that after receiving the income verifications, Claimant's FAP budget was recalculated and it was determined that she was eligible for ██████ in FAP benefits monthly, effective October 1, 2013. Claimant requested a hearing disputing the Department's calculation of her FAP benefits.

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

At the hearing, the FAP EDG Net Income Results from October 1, 2013 was reviewed. (Exhibit 8). The Department concluded that Claimant had earned income of \$█████0. The Department testified that because Claimant did not submit 30 days of income and the verification of employment form submitted was not signed by Claimant's boyfriend's employer, it made a collateral contact with the employer and was informed that Claimant's boyfriend is employed as an independent contractor and that he earns ██████ a month. (Exhibit 6). Claimant confirmed that her boyfriend gets paid weekly.

The Department stated that it prospectively budgeted the earned income to determine that Claimant's monthly earned income to be \$█████, however, after further review; the Department did not properly calculate Claimant's earned income, as the standard monthly amount does not result in earned income of ██████. Therefore, the Department did not properly calculate Claimant's earned income.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of two and that the [REDACTED] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 11-12. The Department testified and Claimant confirmed that she does not have housing costs, however, she does pay utility costs.

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 determined that Claimant was eligible for \$ [REDACTED] in FAP benefits effective October 1, 2013.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA and SDA 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 October 1, 2013, ongoing, using the best available income information;
2. Issue supplements to Claimant for any FAP benefits she was entitled to receive but did not effective October 1, 2013 ongoing; and
3. Notify Claimant of its decision in writing.



ZAINAB BAYDOUN

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

Date Signed: November 12, 2013

Date Mailed: November 13, 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]