

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

**IN THE MATTER OF:**

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

Reg. No.: 2014-4604  
Issue Nos.: 1000, 2027, 3014  
Case No.: ██████████  
Hearing Date: November 18, 2013  
County: Wayne (82-15)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████  
██████████

**ISSUES**

1. Did the Department properly deny Claimant's application for cash assistance under the Family Independence Program (FIP)?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for October 1, 2013, ongoing?
3. Did the Department properly provide Medical Assistance (MA) coverage to Claimant and her great-nephew?

**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 is a recipient of Social Security Income (SSI) benefits from the Social Security Administration (SSA).
2. Claimant was an ongoing recipient of FAP benefits from the Department.

3. Claimant lives with her niece and the niece's son (Claimant's great-nephew).
4. On September 16, 2013, Claimant, believing that she was her great-nephew's legal temporary guardian, applied online for FIP and MA assistance for her great-nephew and to add her great-nephew to her FAP case.
5. On September 19, 2013, the Department sent Claimant a Notice of Case Action denying Claimant's application for cash assistance and denied MA for each of the household members.
6. On October 2, 2013, the Department sent Claimant a Notice of Case Action closing her FAP case effective October 1, 2013, because her group's net income exceeded the net income limit and because verification of rent and unearned income for Claimant's niece was not returned.
7. On October 2, 2013, Claimant filed a request for hearing disputing the Department's actions concerning the cash assistance application and her MA and FAP cases.

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

Additionally, Claimant requested a hearing concerning FAP, MA and cash assistance.

### **Claimant's MA Case**

In her hearing request, Claimant expressed concerns regarding the denial of MA coverage and referenced concerns regarding her Medicaid coverage. At the hearing, Claimant clarified that the Department had provided MA coverage to her great-nephew and that was no longer an issue. However, she continued to be concerned about her MA coverage. The Department was not aware of Claimant's MA status.

Claimant is an SSI recipient. An SSI recipient is automatically eligible for MA as long as the recipient is a Michigan resident and cooperates with third-party resource liability requirements. BEM 150 (March 2013), p. 1. The Department administers MA for SSI recipients. BEM 150, p. 1.

In this case, there was no evidence disputing that Claimant is a Michigan resident or alleging that she failed to cooperate with third-party resource liability requirements. Therefore, Claimant is automatically eligible for MA as an SSI recipient. Because the Department failed to establish that Claimant had ongoing MA coverage, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy.

### **Denial of FIP Application**

Claimant testified that, at the time she filed her September 16, 2013, application for cash assistance, she believed she was her great-nephew's temporary legal guardian and was applying for cash assistance on his behalf. Therefore, Claimant was seeking cash assistance under the FIP program. See BEM 210 (January 2013), p. 1. However, she subsequently became aware that her letters of guardianship expired prior to the application date. Based on this information, Claimant testified at the hearing that she did not wish to pursue her hearing concerning the denial of the FIP application. Accordingly, Claimant's hearing request concerning the denial of the FIP application is dismissed.

It is noted that the Department also considered Claimant's eligibility for cash assistance under the State Disability Assistance (SDA) program. However, because Claimant's \$710 in monthly SSI benefits is in excess of the \$200 monthly SDA payment standard, the Department acted in accordance with Department policy to the extent it found her ineligible for cash assistance under the SDA program because she has excess income. BEM 515 (November 2012), p. 1; RFT 225 (October 2011), p. 1.

### **Calculation of FAP Eligibility**

In an October 2, 2013, Notice of Case Action, the Department closed Claimant's FAP case effective October 1, 2013, for excess net income and failure to verify housing expenses. At the hearing, the Department testified that, because Claimant had filed an application to add her great-nephew to her FAP case and because Claimant's niece, the child's mother, lived in the household with Claimant and the child, it included the niece, as well as her income, in the calculation of the household's FAP eligibility. Originally, the calculation of Claimant's FAP eligibility took into consideration Claimant's reported \$275 in monthly shelter expenses, and the Department concluded, based on the household's income and the \$275 in housing expenses, that Claimant was not eligible

for FAP benefits. However, because Claimant and her niece submitted verification on October 2, 2013, of additional shelter expenses by the niece, the Department testified that it recalculated Claimant's eligibility for FAP benefits to take into consideration the reported shelter expenses, determined that the household was eligible for monthly FAP benefits for a group size of three, and reinstated Claimant's FAP case as of October 1, 2013.

During the course of the hearing, two issues arose : (1) whether Claimant's niece (and her income) was properly included in Claimant's FAP group and (2) if so, whether shelter expenses were properly calculated.

Department policy provides that parents and their children under 22 years of age who live together must be in the same group. BEM 212 (November 2012), p. 1. While a person acting as a parent and the child for whom she acts as a parent who lives with her must be in the same group, if the child's parent also lives with them, she must also be included in the FAP group. BEM 212 (November 2012), pp. 1-2, 3. Therefore, when Claimant asked to have her great-nephew added to her FAP group because she was the child's caretaker, the child's mother, who also resided with Claimant and the child, would also have to be added to the FAP group. Therefore, based on the facts presented at the time of the September 16, 2013, application, the Department acted in accordance with Department policy when it concluded that the FAP group consisted of three members: Claimant, her niece, and the child. It is noted that, even if the group continues to live together, if Claimant is no longer the child's caretaker and purchases and prepares food separately from her niece, she and her niece could be in separate FAP groups, with the child in his mother's group. BEM 212, pp. 1, 5.

Because the Department did not provide a budget showing the calculation of Claimant's net income in the hearing packet, the figures in the October 2, 2013 Notice of Case Action used in calculating Claimant's eligibility were reviewed at the hearing. Claimant confirmed that her sole income was her \$710 in monthly SSI income and her \$14 in monthly State SSI Payment (SSP) benefits (based on \$42 paid quarterly). Because Claimant's niece was an FAP group member, her income, which consisted of monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1,449, was properly considered in determining the group's FAP eligibility. BEM 550 (February 2012), p. 1; BEM 556 (July 2011), p. 2. The sum of this income results in monthly unearned income of \$2,173, as reflected on the Notice of Case Action budget. Claimant verified that her housing costs were \$275 monthly. Documentation submitted by Claimant's niece verified that she paid \$750 monthly in housing expenses. However, the Department testified that it had budgeted only \$700 monthly for the niece's shelter expenses, for total household shelter expenses of \$975, when it calculated Claimant's FAP group's shelter expenses. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's monthly shelter expenses and, consequently, her FAP benefit amount.

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 it calculated Claimant's FAP benefits for October 1, 2013, ongoing based on incorrect shelter expenses and the Department did not satisfy its burden of showing that it acted in accordance with Department policy in providing MA coverage for Claimant.

**DECISION AND ORDER**

Based on Claimant's agreement at the hearing, Claimant's October 2, 2013, hearing request concerning the Department's denial of her FIP application is DISMISSED.

The Department's MA and FAP decisions are 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. Activate Claimant's MA coverage for SSI recipients for all months Claimant is eligible for such coverage;
2. Recalculate Claimant's FAP benefits for October 1, 2013, ongoing to include all group member's verified shelter expenses; and
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 21, 2013

Date Mailed: November 21, 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

ACE/pf

cc: [REDACTED]  
[REDACTED]  
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