

**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.: 2014-5788
Issue Nos.: 2018, 3002
Case No.: ██████████
Hearing Date: November 14, 2013
County: Wayne (82-31)

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 14, 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 calculate Claimant's Food Assistance Program (FAP) benefits?
2. Did the Department properly deny Claimant's Medical Assistance (MA) application?

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 an ongoing recipient of Supplemental Security Income (SSI) benefits paid by the Social Security Administration (SSA).
2. On September 23, 2013, Claimant applied for FAP and MA.
3. On September 24, 2013, the Department sent Claimant a Notice of Case Action denying the MA application and approving Claimant for \$30 in FAP benefits for

September 23, 2013, to September 30, 2013, and for monthly FAP benefits of \$108 for October 1, 2013, ongoing.

4. On October 10, 2013, Claimant filed a request for hearing disputing the amount of his FAP benefits and the denial of his MA application.

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 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 disputing the denial of his MA application and the amount of his monthly FAP benefits.

Denial of MA Application

The Department denied Claimant's application for MA. 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.

Claimant is an SSI recipient. The Department's notes on Claimant's application that his sole source of income is SSI establish that the Department was aware of Claimant's SSI status at the time of his application. The Department did not dispute that Claimant was a Michigan resident or contend that he had failed to cooperate with third-party resource liability requirements. As such, the Department did not act in accordance with Department policy when it denied Claimant's MA eligibility.

Calculation of FAP Benefits

In the September 24, 2013, Notice of Case Action, the Department approved Claimant for FAP benefits of \$30 for September 23, 2013, to September 30, 2013, and for monthly FAP benefits of \$108 for October 1, 2013, ongoing.

Because the Department did not provide a FAP budget showing the calculation of Claimant's FAP benefits, the budget information shown on the Notice of Case Action was reviewed during the hearing. The Notice shows gross monthly unearned income of \$724, which the Department testified consisted of Claimant's gross monthly SSI benefits of \$700 and his gross monthly State SSI Payment (SSP) of \$14 (based on quarterly \$42 payments). Claimant confirmed he received \$710 in monthly SSI benefits, but testified that he had not received any SSP benefits. The evidence at the hearing established that Claimant had returned to Michigan from out of state in September 2013, just prior to his September 23, 2013, application date. Department policy provides that SSP benefits are paid on the last month of each quarter. BEM 660 (November 2012), p. 1. Therefore, Claimant would receive his first payment in December 2013 for October 2013 through December 2013. See BEM 660, p. 1. Thus, the Department properly considered the monthly SSP benefit in calculating Claimant's unearned income. See BEM 503 (July 2013), p. 25.

The only other issue raised at the hearing concerning the calculation of Claimant's FAP benefits was the exclusion of shelter expenses from the budget. A client's shelter expenses, including rent, are considered in the calculation of the excess shelter deduction in the client's FAP budget. BEM 554 (October 2012), pp. 1, 10; BEM 556 (July 2011), pp. 4-5. However, the client must verify shelter expenses before they are included in his FAP budget. BEM 554, p. 11.

In this case, Claimant credibly testified that he had waited several hours for someone to assist him with his application, and that the Department receptionist, not a worker, interviewed him, a fact that the Department confirmed at the hearing. Claimant explained that he marked "NA" in his application under "shelter expenses" where asked to identify his rent because he assumed that "shelter" referred to a homeless shelter and he was not in a homeless shelter. However, he informed the Department receptionist who interviewed him that he paid his cousin, with whom he lived, monthly rent of \$300. He added that he did not write in the "\$0" under rent in the application, and a review of the application shows that the \$0 is not in the same handwriting as the remainder of the application.

During the FAP interview, the Department must review and update the application, help complete application items not completed when the application was filed, and resolve any unclear or inconsistent information. BAM 115 (July 2013), p. 14. Under the facts presented, Claimant established that he informed the receptionist of his rental obligations. The Department did not act in accordance with Department policy when it failed to assist Claimant in properly completing the application and did not seek verification of the rental obligation.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's September 23, 2013, MA application;
2. Provide Claimant with MA coverage for SSI recipients from September 1, 2013, ongoing;
3. Recalculate Claimant's FAP benefits for September 23, 2013, ongoing, to include shelter expenses Claimant verifies; and
4. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from September 23, 2013, ongoing.


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

Date Signed: November 18, 2013

Date Mailed: November 18, 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.

2014-5788/ACE

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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