

**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.: 2014-3721
Issue No.: 2000;3001
Case No.: ██████████
Hearing Date: December 16, 2013
County: Wayne (57)

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 three way telephone hearing was held on December 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Program Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and process her 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. On September 14, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her FAP case would be closed on the basis that her net income exceeded the limit. (Exhibit1)
3. On October 1, 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

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 hearing was requested to dispute the Department's action taken with respect to Claimant's Medical Assistance (MA) benefits. Shortly after commencement of the hearing, Claimant testified that she understands and is satisfied with the actions taken by the Department and that she no longer had any issues to address with respect to her MA case. Claimant further confirmed that she did not wish to proceed with the hearing concerning her MA case. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the MA case is hereby **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, 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. 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 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, 35-36.

At the hearing, the FAP EDG Net Income Results Budget [REDACTED] was reviewed. (Exhibit 2). The Department concluded that Claimant's group had earned income of [REDACTED] which came from Claimant's employment. Specifically, the

Department stated that it relied on weekly paystubs of (i) ██████ paid on August 30, 2013; (ii) ██████ paid on September 6, 2013; and (iii) ██████ paid on September 13, 2013. The Department presented copies of the paystubs used to calculate Claimant's earned income. (Exhibit 3). Included in the paystubs provided was one in the amount of ██████1 paid on September 20, 2013. It remained unclear after further review of the evidence whether this paystub was included or excluded as the income amounts the Department testified were used to prospectively budget Claimant's earned income, do not total ██████. Therefore, the Department has failed to satisfy its burden in establishing that it properly calculated Claimant's earned income.

The Department concluded that Claimant had unearned income of \$█████ which came from RSDI benefits. Claimant confirmed that a group member receives this amounts in gross monthly RSDI benefits, therefore, the Department properly calculated Claimant's unearned income.

The budget shows that the Department properly applied the ██████ standard deduction applicable to Claimant's confirmed group size of three and that the \$█████ standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs of ██████, 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 closed Claimant's FAP case based on excess income.

Claimant raised an additional concern regarding the Department's failure to continue to provide her with FAP benefits at the current level pending the outcome of the hearing. Claimant testified that she verbally submitted a timely hearing request and subsequently submitted a written request that was received on October 1, 2013. Although the Department did not continue to provide Claimant with her FAP benefits pending the outcome of the hearing, as required under BAM 600, this error proved to be harmless because the Department will be ordered to reinstate Claimant's case, recalculate her FAP budget and supplement her for any FAP benefits that she was entitled to receive from the closure date ongoing, if eligible. BAM 600 (July 2013) pp. 24-25. Had Claimant continued to receive FAP benefits pending the outcome of this decision that she was not eligible to receive, the Department would be entitled to recoupment of any benefits provided to Claimant that she was not entitled to receive. BAM 600, p. 23; BAM 700 (July 2013), p. 5.

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. Reinstate Claimant's FAP case effective October 1, 2013;
2. Recalculate Claimant's FAP budget for October 1, 2013, ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant of its decision in writing.



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

Date Signed: December 18, 2013

Date Mailed: December 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.

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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]