

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-41744
Issue Nos.: 2000, 3002
Case No.: [REDACTED]
Hearing Date: May 15, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 15, 2013, from Detroit, Michigan. Claimant and [REDACTED] appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED].

ISSUE

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA) and Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of MA.
2. There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of her hearing request.
3. Claimant was an ongoing recipient of FAP benefits.
4. Claimant received \$141.00 in monthly FAP benefits from January 1, 2013, through April 30, 2013. Exhibit 4.

5. Claimant was not in agreement with the calculation of her FAP benefits from January 1, 2013, through April 30, 2013.
6. On April 15, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

MA

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Additionally, Claimant filed a request for hearing on April 15, 2013, to dispute actions taken by the Department with respect to her MA case. At the hearing, Claimant stated that she incurred medical expenses and submitted documentation of these expenses to the Department throughout the years of 2006-2012 and the Department did not properly apply the expenses to her MA case. Claimant did not provide a specific date as to when this action was taken and the actions were not tied to a specific Notice of Case Action.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, BAM 600 (February 2013), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of her hearing request; therefore, her hearing request with regards to her MA was not timely filed within ninety days of the negative action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 4.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP

pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

In the present case, Claimant requested a hearing to dispute the Department's calculation of her FAP benefits. According to the eligibility summary provided, Claimant received \$141.00 in monthly FAP benefits from January 1, 2013, through April 30, 2013. Exhibit 4.

All countable earned and unearned income available to the client must be considered in determining the claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1-3. 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 (May 2013), p. 21.

At the hearing, the budget from the FAP EDG Net Income Results was reviewed. Exhibit 1. The Department concluded that Claimant's group had unearned income in the amount of \$1, 675.00 which came from monthly RSDI benefits for Claimant and her husband. The SOLQ presented verifies that Claimant receives \$914.00 in monthly RSDI benefits and Claimant's husband confirmed that he receives \$761.00 in monthly RSDI benefits. Exhibit 2. Therefore, the Department properly calculated Claimant's unearned income.

The FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of two and the \$575.00 standard heat and utility deduction available to all FAP recipients which is evidenced by the excess shelter deduction provided. Exhibit 1, pp. 1-3; RFT 255 (October 2012), p. 1; BEM 554 (October 2012), pp. 11-12. Claimant verified her monthly rent was \$700.00, which the Department properly determined. Exhibit 1, p. 3. 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 \$35.00. BEM 554, p. 1. At the time of the hearing, Claimant had not submitted any additional medical expenses, so a medical deduction was not applied. The Department testified and Claimant's husband confirmed that \$175.00 is automatically deducted from his monthly RSDI benefits to cover the cost of child support in another state. The SOLQ provided for Claimant's husband indicates that the net amount of RSDI benefits he receives is \$586.00. Exhibit 3. The Department applied a \$175.00 child support deduction to Claimant's FAP budget in accordance with BEM 554 (October 2012), pp. 4-5.

A review of the FAP budget shows that the Department acted in accordance with Department policy when it concluded that Claimant had monthly net income of \$753.00 and was eligible for monthly FAP benefits of \$141.00 effective January 1, 2013. BEM 556 (October 2011); RFT 260 (December 2012), p. 7.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that Claimant's hearing request with regards to MA is DISMISSED for lack of jurisdiction.

The Administrative Law Judge further finds that the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: May 28, 2013

Date Mailed: May 28, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

2013-41744/ZB

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ZB/pf

cc:

