

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-55073
Issue No.: 2014;3002
Case No.: ██████████
Hearing Date: August 1, 2013
County: Wayne (57)

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 conducted on August 1, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Eligibility Specialist and ██████████, Assistance Payment Supervisor.

ISSUE

Due to excess income, did the Department properly close Claimant's Medical Assistance (MA) case?

Did the Department properly calculate the amount of Claimant's 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 and FAP benefits.
2. In connection with a redetermination, Claimant's eligibility for MA and FAP was reviewed.
3. On June 18 2013, the Department sent Claimant a Notice of Case Action informing him that his MA case would be closing effective August 1, 2013 due to excess

income and that effective July 1, 2013, his FAP benefits would be reduced to \$180.00. (Exhibit 7).

4. On June 24, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

MA

The Medical Assistance (MA) program is established by the 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.

In this case, Claimant was receiving MA under the Adult Medical Program (AMP). After receiving income verifications from Claimant for his employment, the Department determined that Claimant's income had exceeded the limit for the AMP program, resulting in his ineligibility for MA under the AMP.

Income eligibility for AMP exists when the group's net income does not exceed the program group's AMP income limit. BEM 640 (October 2012), p. 3. At the time the Department closed Claimant's AMP case, the AMP income limit for an individual in an independent living arrangement was \$336.00. RFT 236 (June 2013), p 1.

Additionally, the Department must prepare a future month budget to determine a client's ongoing eligibility for MA when a change is reported using amounts that will be, or are likely to be, received in the future month. BEM 530 (October 2012), pp 1-3; BEM 640, p 4. When the amount of income from a source changes from month to month, the Department must estimate the amount that will be, or is likely to be, received in the future month. BEM 640, p 4. For example, for fluctuating earned income, the Department must use the expected hourly wage and hours to be worked, as well as the pay day schedule, to estimate gross earnings. BEM 640, p 4. To determine a client's net income for AMP eligibility purposes, the Department must also deduct \$200 from the client's gross earnings, then deduct 20% from the client's remaining gross earnings. BEM 640, p 4.

At the hearing, the AMP Budget was reviewed. The Department determined that Claimant had earned income of \$854.00. (Exhibit 4). The Department testified that in calculating Claimant's earned income, it used the information provided on the verification of employment form including check dated May 31, 2013 in the amount of \$605.50 and check dated June 14, 2013 in the amount of \$248.71. (Exhibit 3).

Claimant testified that the \$605.50 pay stub from May 31, 2013 that was used by the Department was unusually high and that it included a one-time overtime payment that he does not normally receive. Claimant stated that his pay stub was that high because he was covering for a co-worker who was not able to work that period. Claimant testified that he usually works 8 to 20 hours per week and that he gets paid bi-weekly at a rate of \$8.50 per hour. Claimant's testimony is consistent with the information on the New Hire Client Notice and the Employment Information section of the Verification of Employment form that was submitted to the Department. (Exhibit 1 and Exhibit 2).

Because the pay stubs used by the Department do not accurately reflect Claimant's earned income, the Department did not act in accordance with Department policy when it calculated Claimant's net income and, consequently, AMP eligibility.

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. Rule 400.3001 through Rule 400.3015.

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 (January 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 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 2010), p 2. 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. 4. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, p 5. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received biweekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 2.15 multiplier. BEM 505, pp. 6-7. The Department is also required to apply a 20% earned income deduction to Claimant's total earned income. BEM 550 (February 2012), p. 1.

At the hearing, the FAP Net Income Results budget for the benefit period of July 2013 was reviewed. (Exhibit 5). The Department concluded that Claimant had earned income of \$854.00. The Department testified that in calculating Claimant's monthly earned

income, it considered the following: (1) \$605.50 paid on May 31, 2013 for 68 hours worked; and (2) \$248.71 paid on June 14, 2013 for 34 hours worked. (Exhibit 1).

Based on Claimant's testimony at the hearing which is discussed in greater detail above, the Department did not act in accordance with Department policy when it failed to discard the unusual overtime pay Claimant received on May 31, 2013 and when it failed to consider 60 to 90 days' worth of Claimant's income, as that is a more accurate indicator of what his future earnings will be.

Although the budget shows that the Department properly determined Claimant's housing costs and properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of one and that the \$575.00 standard heat and utility deduction available to all FAP recipients was applied; because of the errors in the calculation of Claimant's earned income, the Department did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits. (Exhibit 5); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12.

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 the Department did not act in accordance with Department policy when it closed Claimant's AMP case due to excess income and when it calculated Claimant's FAP benefits. Accordingly, the Department's AMP and FAP decisions are REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's AMP case effective August 1, 2013;
2. Begin reprocessing Claimant's continued eligibility under the AMP program by recalculating Claimant's AMP budget, in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with AMP coverage he was eligible to receive from August 1, 2013, ongoing;
4. Begin recalculating the FAP budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
5. Issue supplements to Claimant for any FAP benefits he was entitled to receive but did not from July 1, 2013 ongoing; and

6. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: August 8, 2013

Date Mailed: August 8, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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/cl

cc:

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