

**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.: 2013-58683
Issue No.: 3019; 4003
Case No.: ██████████
Hearing Date: August 15, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistant Payment Supervisor, and ██████████ Eligibility Specialist.

ISSUES

Did the Department properly close Claimant's State Disability Assistance (SDA) program benefits effective August 1, 2013, ongoing?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective August 1, 2013, ongoing?

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 SDA benefits.
2. Claimant is an ongoing recipient of FAP benefits.
3. On April 15, 2013, the Department sent Claimant a redetermination. Exhibit 1.

4. On May 6, 2013, Claimant submitted the redetermination, which included an additional household member. See Exhibit 1.
5. On May 6, 2013, the Department sent Claimant a Verification Checklist (VCL) in regards to the FAP program, and the verifications were due back by May 16, 2013.
6. On May 6, 2013, the Department sent Claimant a Verification of Vocational Rehabilitation Status in regards to the SDA program. Exhibit 1.
7. On May 16, 2013, the Department received the Verification of Vocational Rehabilitation Status from the Michigan Rehabilitation Services (MRS); however, the form was incomplete. See Exhibit 1.
8. On May 23, 2013, the Department contacted MRS and it determined Claimant's MRS case is not active.
9. On July 8, 2013, the Department sent Claimant a Notice of Case Action notifying him that his SDA benefits would close effective August 1, 2013, ongoing, due to Claimant not currently in the MRS program and for his failure to comply with the verification requirements. Exhibit 1.
10. On July 8, 2013, the Notice of Case Action also notified Claimant that his FAP benefits decreased in the amount of \$97 effective August 1, 2013. Exhibit 1.
11. On July 15, 2013, Claimant filed a timely hearing request, protesting the Department's action.
12. Also on July 15, 2013, Claimant provided a letter, which indicated that the additional FAP group member left the home.
13. On July 19, 2013, Claimant submitted a change report indicating that he prepares his own meals and requesting his FAP benefits reflect a group size of one.

CONCLUSIONS OF LAW

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

Preliminary matter

Other changes must be reported within 10 days after the client is aware of them. BAM 105 (March 2013), p. 7. These include, but are not limited to, changes in persons in the home. BAM 105, p. 7.

As a preliminary matter, Claimant testified that his FAP group member was not living with him for one week. Claimant's Request for Hearing, though, indicated that the FAP group member left the home. See Exhibit 1. Then, Claimant testified that the FAP group member is now living with him, however, they are preparing their own meals. Thus, Claimant does not want the additional group member included in the FAP group. Claimant requested a FAP group size of one for the effective benefit period of August 1, 2013, ongoing.

The Department testified that Claimant reported on the redetermination that Claimant has an additional household member. See Exhibit 1. Also, the redetermination shows that Claimant stated "yes" to the question if whether they buy and fix food together. See Exhibit 1. The Department testified that based on that information, it processed the FAP budget to include a group size of two. Second, the Department testified that it first learned from Claimant that he is preparing his own meals at the pre-hearing conference on July 19, 2013. Claimant agreed that he first reported this information on July 19, 2013. Based on this information, the Department properly included a group size of two for Claimant's FAP group effective August 1, 2013, ongoing. The Department properly processed the redetermination to reflect a group size of two based on the information that Claimant provided. Moreover, Claimant's change report is subsequent to this hearing request. If Claimant would like to dispute the Department's failure to process his change report, he would have to file another hearing request. See BAM 600 (July 2013, pp. 3-4.

FAP benefits

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.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard

monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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.

At the hearing, the Department presented the August 2013 FAP budget for review. See Exhibit 1. The Department testified that the earned income was \$1,852 based on Claimant's second additional group member. The Department obtained the group member's earned income from the Work Number. The Work Number indicated that the group member received bi-weekly pay. The two amounts the Department obtained indicated gross earnings of \$878 and \$844. See Exhibit 1. The Department will then add these two amounts together and then divide by two, to obtain an average bi-weekly pay. This amount is found to be \$861. Using the conversion for bi-weekly income as outlined in BEM 505; the standard monthly amount would be \$1,852 (\$861 bi-weekly pay times 2.15). BEM 505, p. 6. Claimant was unsure about this calculation. Based on the foregoing information and evidence, the Department properly calculated the FAP groups total earned income of \$1,852. BEM 505, pp. 1-12.

Because the Department properly calculated the total gross countable earned income to be \$1,852, the Department then reduced that amount by a 20 percent earned income deduction. BEM 550 (February 2012), p. 1. Twenty percent of \$1,852 is \$371, which results in a post earned income of \$1,481. The Department then applied the \$148 standard deduction applicable to Claimant's group size of two. BEM 550, p. 1; RFT 255 (October 2012), p. 1. This results in an adjusted gross income of \$1,333 (\$1,481 post earned income minus \$148 standard deduction).

Claimant testified that the FAP group does not contain any senior/disabled/disabled veteran (SDV) members. For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. BEM 554 (October 2012), p. 1; RFT 255, p. 1. RFT 255 indicates that the standard shelter maximum for non-SDV members is \$469. RFT 255, p. 1.

Claimant's monthly housing expense is \$525, which Claimant did not dispute. See Exhibit 1. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,100. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,333 adjusted gross income. Fifty percent of the adjusted gross income is \$666. Then, the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,100 shelter income minus \$666 adjusted gross income); this amount is found to be \$434. See BEM 556, pp. 1-6.

Finally, the FAP group net income is \$899 (\$1,333 adjusted group income minus \$434 excess shelter deduction). A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$97, the same amount calculated by the Department. RFT 260 (December 2012), p. 8. Thus, the Department properly calculated Claimant's FAP Budget in accordance with department policy for the effective benefit period of August 1, 2013, ongoing.

SDA benefits

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5. This includes completion of necessary forms. BAM 105, p. 5. For SDA cases, allow the client 10 calendar days (or other time limit specified in policy) to provide the verification the Department requests. BAM 130 (May 2012), p. 5. Also for SDA cases, if the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it, then policy directs that a negative action be issued. BAM 130, p. 5.

Also, to receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (January 2012), p. 1. Persons receiving Michigan Rehabilitation Services (MRS) meet the SDA disability criteria. BEM 261, pp. 1-2. A person is receiving services if he has been determined eligible for MRS and has a signed active individual plan for employment (IPE) with MRS. BEM 261, p. 1. The Department does not refer or advise applicants to apply for MRS for the purpose of qualifying for SDA. BEM 261, p. 1. Verification for MRS includes a form DHS-4698, Verification of Vocational Rehabilitation Status; other statement from MRS or COB; or current (within the last 12 months) signed copy of the client's individual plan for employment (IPE). BEM 261, p. 5.

In the present case, Claimant was an ongoing recipient of SDA benefits. On April 15, 2013, the Department sent Claimant a redetermination. Exhibit 1. On May 6, 2013, the Department sent Claimant a Verification of Vocational Rehabilitation Status in regards to the SDA program. Exhibit 1. On May 16, 2013, the Department received the Verification of Vocational Rehabilitation Status from the Michigan Rehabilitation Services (MRS); however, the form was incomplete. See Exhibit 1. On May 23, 2013, the Department testified that it contacted MRS and it determined Claimant's MRS case is not active because he had not been assigned a counselor for intake. See Hearing Summary, Exhibit 1. Moreover, the Department testified that MRS was not able to provide a start or end date for the Claimant. See Hearing Summary, Exhibit 1. The

Department testified that Claimant is currently not active with MRS, thus he does not meet the SDA program requirements. See Hearing Summary, Exhibit 1. On July 8, 2013, the Department sent Claimant a Notice of Case Action notifying him that his SDA benefits would close effective August 1, 2013, ongoing, due to him not being in the MRS program and for his failure to comply with the verification requirements. Exhibit 1.

At the hearing, Claimant agreed with the Department that he did discover he was inactive when he contacted MRS. Claimant testified that he has been having issues with the MRS in trying to obtain a counselor.

Based on the foregoing information and evidence, the Department properly closed Claimant's SDA benefits effective August 1, 2013, ongoing, in accordance with Department policy. BEM 261 states that a person is receiving services if he has been determined eligible for MRS and has a signed active individual plan for employment (IPE) with MRS. BEM 261, p. 1. Both Claimant and the Department agreed that he was not active because he was not assigned a counselor and did not have a start or end date. The Department provided credible evidence that a collateral contact was made to MRS confirming this information. See Exhibit 1. Moreover, Claimant must complete the necessary forms to determine ongoing eligibility. Claimant failed to complete the Verification of Vocational Rehabilitation Status and therefore, he failed to comply with the verification requirements. BAM 105, p. 5 and BAM 130, p. 5.

It should also be noted that Claimant testified that he should be entitled to his full SDA benefits because he had timely filed a hearing request, pending a hearing decision. See Exhibit 1. While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request for hearing was filed timely. BAM 600, pp. 17-18. A hearing is timely filed if the request is received anywhere in the Department within 11 days of the effective date of the negative action. BAM 600, p. 17.

In this case, the Department did not properly reinstate Claimant's program benefits to the former level pending the hearing decision. However, this hearing decision ultimately concluded that the Department properly closed Claimant's SDA benefits effective August 1, 2013. Thus, if the Department did reinstate Claimant's program benefits and Claimant was not entitled to those benefits, the Department must attempt to recoup the overissuance. Based on this information, it is harmless error for the Department not to reinstate Claimant's SDA benefits. Ultimately, the Department properly closed Claimant's SDA benefits effective August 1, 2013, ongoing. Thus, Claimant is not entitled to SDA benefits for August 2013.

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 (i) properly closed Claimant's SDA benefits effective August 1, 2013, ongoing, and (ii) properly calculated Claimant's FAP benefits effective August 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
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