

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

IN THE MATTER OF:

██████████
████████████████████
██████████
████████████████████

Reg. No.: 2014-19494
Issue No(s): 2000;3008;4000
Case No.: ██████████
Hearing Date: January 27, 2014
County: Oakland (03)

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 telephone hearing was held on January 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Specialist.

ISSUE

Did the Department properly process Claimant's State Disability Assistance (SDA), Medical Assistance (MA) and 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. There was no negative action taken with respect to Claimant's SDA benefits.
3. On September 19, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her MA case would be closed on the basis that she failed to complete a redetermination form. (Exhibit 1, pp. 15-19)
4. On October 12, 2013, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2013, her FAP benefits would be decreased to \$██████ (Exhibit 1, pp.66-71)

5. On December 20, 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).

SDA/MA

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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 Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July, 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.]

SDA

Claimant submitted a hearing request disputing the actions of the Department with respect to her SDA benefits. Soon after commencement of the hearing, Claimant testified that she was not an active and ongoing recipient of SDA benefits and that she had not submitted an application for SDA within the 90 days prior to her filing of a

hearing request. Therefore, the Department had neither determined Claimant's eligibility for SDA nor had the Department taken any negative action with respect to Claimant's SDA benefits; therefore, Claimant's hearing request with respect to SDA is **DISMISSED** for lack of jurisdiction. BAM 600, p 4.

MA

In the present case, on September 19, 2013, the Department sent Claimant a Notice of Case Action informing her that her MA case would be closing effective October 1, 2013. Subsequent to the hearing and after further review of the evidence, it was discovered that Claimant did not request a hearing to dispute this adverse action taken by the Department until December 20, 2013. There was no negative action taken by the Department with respect to Claimant's MA during the 90 days preceding the filing of her hearing request; therefore, her hearing request was not timely filed within ninety days of the September 19, 2013 negative action notice and is, therefore, DISMISSED for lack of jurisdiction. BAM 600, p 4. Claimant was informed that she was entitled to submit a new application for MA and have her eligibility to receive MA determined.

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.

Claimant requested a hearing to dispute the amount of her FAP benefits effective November 1, 2013.

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 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. The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. The Department is to exclude the fee withheld by an authorized organization. BEM 503, p.28.

At the hearing, the Budget Summary from the October 12, 2013, Notice of Case Action was reviewed. The Department determined that Claimant had unearned income of [REDACTED] which came from RSDI. Although Claimant confirmed that she did receive this amount in gross RSDI benefits, Claimant testified that OLSHA acts as her representative payee for her RSDI benefits and that they withhold \$ [REDACTED] monthly from her benefits. Claimant presented a general ledger in support of her testimony. (Exhibit A). After further review, the Department did not properly calculate Claimant's unearned income, as the fee withheld by OLSHA was included in the Department's unearned income calculation.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of one and that the \$553.00 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 also properly considered Claimant's confirmed housing costs of [REDACTED]. Claimant indicated that her housing costs had increased to [REDACTED], however, verification of this increase was provided at the hearing and will impact Claimant's future FAP benefits.

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 [REDACTED]0. BEM 554, p 1. The Department properly considered Claimant's \$[REDACTED] insurance premium and other medical expenses to determine that Claimant had a medical deduction of [REDACTED]

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 Department's calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to SDA and 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. Recalculate Claimant's FAP budget for November 1, 2013, ongoing; and
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from November 1, 2013, ongoing.



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

Date Signed: January 31, 2014

Date Mailed: February 3, 2014

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.

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]
[REDACTED]
[REDACTED]