

**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.: 2014-25441
Issue No(s): 2001;3008
Case No.: ██████████
Hearing Date: March 3, 2014
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 telephone hearing was held on March 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Family Independence Manager.

ISSUE

Did the Department properly process Claimant's 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 FAP benefits.
2. On January 7, 2014, the Department sent Claimant a Notice of Case Action informing her that she was approved for MA benefits in the amount of \$328 effective January 1, 2014. (Exhibit 1)
3. Claimant did not agree with the Department's calculation of her FAP benefits effective January 1, 2014.
4. On October 28, 2013, Claimant submitted an application for MA benefits. (Faxed Exhibit 1, pp. 26)

5. On January 31, 2014, 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).

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 (January 2014), pp. 1 – 4.

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. 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. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly paychecks by the 2.15 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 Department will count the gross amount of money earned from Retirement, Survivors, and Disability Insurance (RSDI) and Supplemental Security Income (SSI) as unearned income. BEM 503 (July 2013), pp.28-32. State SSI Payments (SSP) are issued quarterly and the monthly SSP benefit amount is counted as unearned income. BEM 503, p.33.

At the hearing, the FAP EDG Net Income Results budget was reviewed. (Exhibit 2). The Department concluded that Claimant had earned income of \$ [REDACTED] which came from Claimant's employment. Specifically, the Department stated that it relied on information from the Work Number and considered Claimant's biweekly earnings of: (i) \$ [REDACTED] on January 2, 2014; (ii) [REDACTED] paid on January 16, 2014; and (iii) [REDACTED] paid on January 30, 2014. (Exhibit 3). After further review, Claimant's gross monthly income

based on the average biweekly paystubs relied on, multiplied by 2.15 do not total \$ [REDACTED]. Additionally, because Claimant disputed the Department's calculation of her FAP benefits as indicated in the Notice of Case Action dated January 7, 2014, it remained unexplained by the Department how or why income from January 16, 2014 and January 30, 2014, was considered.

The Department concluded that Claimant's group had unearned income of \$ [REDACTED] which came from [REDACTED] in RSDI benefits for Claimant's daughter; [REDACTED] in SSI benefits for Claimant's son and \$14 in SSP payments. The Department presented an SOLQ in support of its testimony and Claimant confirmed that her children receive these monthly benefits. (Exhibit 4)

The budget shows that the Department properly applied the \$ [REDACTED] standard deduction applicable to Claimant's confirmed group size of six and the Budget Summary from the Notice of Case Action shows that the \$ [REDACTED] 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 considered housing costs of [REDACTED] which Claimant confirmed were correct.

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]. BEM 554, p 1. Claimant did not submit any verified medical expenses, so this deduction was not considered.

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 determined that Claimant was eligible for FAP benefits in the amount of [REDACTED].

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.

Additionally, Claimant requested a hearing concerning her MA benefits, as she believed she did not have active MA coverage. It was discovered at the hearing that Claimant had submitted an application for MA benefits on October 28, 2013. (Faxed Exhibit 1, p.26) The Department testified that the application had been registered but that it was not sure whether the application was properly processed, as Claimant testified that she never received a Notice of Case Action informing her of the Department's decision concerning the application. BAM 115 (July 2013), pp. 13, 18; BAM 220 (July 2013), p. 1.

The Department testified that as of January 1, 2014, Claimant had active and ongoing MA benefits. The Department presented an eligibility summary showing Claimant's

eligibility for MA. (Faxed Exhibit 1, pp.1-25). Although the Department further testified that there was active MA coverage for October 2013, ongoing, a review of the eligibility summary does not support the Department's testimony.

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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, the Department's FAP and MA decisions are 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 January 1, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from January 1, 2014, ongoing;
3. Register and process Claimant's October 28, 2013, application for MA benefits;
4. Issue supplements to Claimant for any MA coverage that she and her family were entitled to receive but did not as of the application date, ongoing; and
5. Notify Claimant of its decision in writing.



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

Date Signed: March 6, 2014

Date Mailed: March 6, 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]