

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

IN THE MATTER OF:



Reg. No.: 2014-8431
Issue No(s): 1000; 2000; 3008
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist. Also, [REDACTED] was present as Claimant's interpreter.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective October 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 is an ongoing recipient of FAP benefits. See Exhibit 3.
2. For September 2013, Claimant received FAP benefits in the amount of \$952 for a group size of six. See Eligibility Summary, Exhibit 3.
3. For October 2013, Claimant received FAP benefits in the amount of \$525 for a group size of six. See Eligibility Summary, Exhibit 3.
4. For November 2013, Claimant received FAP benefits in the amount of \$411 for a group size of six. See Eligibility Summary, Exhibit 3.

5. On October 16, 2013, Claimant filed a hearing request, protesting his FAP allotment, Medical Assistance (MA) benefits, and Cash (Family Independence Program (FIP) benefits. See Exhibit 1.
6. On January 3, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a hearing on January 15, 2014. See Exhibit 2.
7. On January 13, 2014, Claimant attempted to submit a hearing request withdrawal, however, it was denied by the Administrative Law Judge (ALJ) on January 15, 2014.
8. On January 15, 2014, the ALJ sent Claimant an Order Denying Hearing Request Withdrawal and rescheduled Claimant's hearing.
9. On January 27, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant for a hearing on February 6, 2014. See Exhibit 2.
10. On February 7, 2014, the MAHS sent Claimant an Order of Dismissal due to his failure to attend his scheduled hearing on February 6, 2014. See Exhibit 2.
11. On February 19, 2014, Claimant submitted a request to vacate the dismissal.
12. On February 24, 2014, the Supervising ALJ sent Claimant an Order Vacating the Dismissal and Order to Schedule the Matter for Hearing. See Exhibit 2.
13. On February 25, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant for a hearing on March 10, 2014. See Exhibit 2.

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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

☒ 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.

Preliminary matters

First, on October 16, 2013, Claimant also requested a hearing to dispute his MA and FIP benefits. See Exhibit 1. Shortly after commencement of the hearing, Claimant testified that he is no longer disputing his MA and FIP benefits. Thus, Claimant's FIP and MA hearing request (dated October 16, 2013) is DISMISSED.

Second, for September 2013, Claimant received FAP benefits in the amount of \$952 for a group size of six. See Eligibility Summary, Exhibit 3. Claimant's dispute occurs when his FAP benefits decreased. On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits decreased to \$310 effective November 2013 for a group size of five. See Exhibit 3.

Claimant's FAP hearing request references the Notice of Case Action dated October 5, 2013. See Exhibit 1. A review of the hearing request determined that Claimant disputes his FAP decrease. See Exhibit 1. Moreover, Claimant's hearing request states that he spoke to the Department and the reason given for the decrease was due to the Department now budgeting his son's Supplemental Security Income (SSI). See Exhibit 1.

Also, it was discovered that there was previously an issue as to the FAP group size. As stated above, the Notice of Case Action (dated October 5, 2013) stated the group size is five. See Exhibit 3. However, a review of the hearing summary discovered subsequent actions by the Department. See Exhibit 1. On October 25, 2013, the hearing summary stated that it added Claimant's wife to the FAP benefits. Exhibit 1. Due to this action, Claimant's FAP group composition increased to six group members. A review of Eligibility Summary indicates a group composition of six for the time period at issue. See Exhibit 3. Claimant also testified that his FAP group composition is six people (Claimant, spouse, two sons, and two daughters). Thus, the Department has cured the issue as to the FAP group composition and it will not be discussed any further in this hearing decision.

Third, this hearing decision will address Claimant's FAP allotment for October and November 2013. This hearing decision will address Claimant's October 2013 FAP benefits because his FAP protest is based upon his decrease in benefits, which began in October 2013. See Eligibility Summary, Exhibit 3. Also, as stated previously, Claimant's hearing request references the Notice of Case Action dated October 5, 2013. See Exhibits 1 and 3. This Notice of Case Action notifies Claimant of his decrease in

FAP benefits for November 2013. See Exhibit 1. Thus, this hearing decision will also address the November 2013 benefits.

FAP allotment for October 2013

For October 2013, Claimant received FAP benefits in the amount of \$525. See Eligibility Summary, Exhibit 3. It was not disputed that the group size is six and that the FAP group does contain senior/disabled/disabled veteran (SDV) members. The Department presented the October 2013 FAP budget for review. See Exhibit 3. The Department calculated the FAP groups gross unearned income to be \$1,868. See Exhibit 3.

The Department counts the gross amount of current Social Security Administration (SSA) - issued SSI as unearned income. BEM 503 (July 2013), p. 32. State SSI Payments (SSP) are issued quarterly. BEM 503, p. 33. Payments are issued in the final month of each quarter. BEM 503, p. 33. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department counts the corresponding monthly SSP benefit amount as unearned income. BEM 503, p. 33; and see RFT 248 (January 2013), p. 1.

Also, FIP benefits are considered the unearned income of the FIP head of household (HOH, formerly grantee). BEM 503, p. 14. The Department counts as unearned income, the amount of cash assistance benefits minus any excludable portion. BEM 503, p. 14.

At the hearing, the budget indicated that the FAP groups gross unearned income was \$1,868. See Exhibit 3. The Department calculated Claimant's SSI income to be \$700, which the SOLQ document did indicate he received such a payment. See SOLQ, Exhibit 3. Also, the Department calculated Claimant's son SSI income to be \$710, which the SOLQ document did indicate the son received such a payment. See SOLQ, Exhibit 3. Finally, the Department testified that the unearned income included the Claimant's FIP allotment in the amount of \$557. The Eligibility Summary does indicate Claimant received \$557 in FIP benefits for October 2013. See Exhibit 3. It should be noted that Claimant received a quarterly SSP payment amount of \$42. See Exhibit 3. The Department would divide this amount by three (quarterly payments) in order to obtain a \$14 monthly average SSP payment. See BEM 503, p. 33. When all these amounts are added together, this results in total unearned income amount of \$1,981 (Claimant's \$700 SSI plus the son's \$710 SSI plus \$557 in FIP benefits plus \$14 SSP payment).

However, the Department calculated a lower unearned income amount for the Claimant (\$1,868). See Exhibit 3. It is unclear why there is a difference in the calculation. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it was unable to indicate how it calculated Claimant's unearned income for October 2013. See BEM 503, pp. 14, 32, and 33. As

such, the Department will recalculate Claimant's FAP benefits for October 1, 2013, ongoing.

It should be noted that the Department properly applied the \$218 standard deduction applicable to Claimant's group size of six. RFT 255 (October 2013), p. 1.

Then, Claimant testified that the FAP group does contain SDV members. For groups with one or more SDV members, the Department uses the excess shelter amount. BEM 554 (July 2013), p. 1. The Department verifies shelter expenses at application and when a change is reported. BEM 554, p. 14.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$500, which the Claimant disputed. See Exhibit 3. Claimant testified that his monthly housing expenses were \$650. Claimant testified that he reported this amount to the Department. Claimant testified that his rent changed between May to July 2013. The Department did not rebut Claimant's testimony regarding his alleged change report for shelter expenses.

Clients must be reported other change within 10 days after the client is aware of them. BAM 105 (October 2013), p. 9. These include, but are not limited to, changes in address and shelter cost changes that result from the move. BAM 105, p. 9. The Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (July 2013), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. BAM 220, pp. 6-7.

Based on the above information, Claimant presented credible testimony that he notified the Department of his change report (shelter costs). Because the Department will recalculate the FAP benefits as stated above, it will also recalculate Claimant's shelter expenses effective October 1, 2013, ongoing, subject to him providing the necessary verifications in accordance with Department policy. BAM 105, p. 9; BAM 220, pp. 6-7; and BEM 554, p. 14.

FAP allotment for November 2013

For November 2013, Claimant received FAP benefits in the amount of \$411. See Eligibility Summary, Exhibit 3. It was not disputed that the group size is six and that the FAP group does contain SDV member. The Department presented the November 2013 FAP budget for review. See Exhibit 3.

At the hearing, the budget indicated that the FAP groups gross unearned income was \$2,005. See Exhibit 3. The Department testified that it calculated Claimant's SSI income to be \$710. However, the SOLQ document appeared to indicate that he received \$700 for this time period. See SOLQ, Exhibit 3. Also, the Department calculated Claimant's son SSI income to be \$710, which the SOLQ document did

indicate the son received such a payment. See SOLQ, Exhibit 3. Finally, the Department testified that the unearned income included the Claimant's FIP allotment in the amount of \$557. The Eligibility Summary does indicate Claimant received \$557 in FIP benefits for November 2013. See Exhibit 3. It should be noted that Claimant received a quarterly SSP payment amount of \$42. See Exhibit 3. The Department would divide this amount by three (quarterly payments) in order to obtain a \$14 monthly average of SSP payments. See BEM 503, p. 33. When all these amounts are added together, this results in total unearned income amount of \$1,991 (Claimant's \$710 SSI plus the son's \$710 SSI plus \$557 in FIP benefits plus \$14 SSP payment).

However, the Department budgeted a higher amount of \$2,005. See Exhibit 3. It is unclear why there is a difference in the calculation. It is possible that Claimant's son received \$14 SSP payments, however, the Department never provided such evidence. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it was unable to indicate how it calculated Claimant's unearned income amount of \$2,005. As such, the Department will recalculate Claimant's FAP benefits for November 1, 2013, ongoing. See BEM 503, pp. 14, 32, and 33.

It should be noted that the Department properly applied the \$218 standard deduction applicable to Claimant's group size of six. RFT 255, p. 1.

Also, as stated previously, the Department will recalculate Claimant's shelter expenses for November 2013 as well, subject to him providing the necessary verifications in accordance with Department policy. BAM 105, p. 9; BAM 220, pp. 6-7; and BEM 554, p. 14.

DECISION AND ORDER

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 improperly calculated Claimant's FAP benefits effective October 1, 2013, ongoing.


Accordingly, 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. Begin recalculating Claimant's FAP budget for October 1, 2013, ongoing, in accordance with Department policy;

2. Begin recalculating Claimant's shelter expenses effective October 1, 2013, ongoing, subject to him providing the necessary verifications in accordance with Department policy;
3. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant in writing of its FAP decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FIP and MA hearing request (dated October 16, 2013) is **DISMISSED**.



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

Date Signed: March 14, 2014

Date Mailed: March 14, 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

2014-8431/EJF

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/tlf

cc:

