

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

IN THE MATTER OF:



Reg. No.: 14000395
Issue No(s): 2000, 3008
Case No.: [REDACTED]
Hearing Date: May 1, 2014
County: Wayne County DHS 31

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 May 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Medical Contact Worker, and [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate and reduce the Claimant's Food Assistance (FAP) allotment?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At the hearing, the Claimant withdrew his hearing request regarding the denial of his medical assistance application as he now has medical assistance through Healthy Michigan.
2. On February 20, 2014, the Department issued a notice of case action which reduced the Claimant's Food Assistance benefits to [REDACTED] effective March 1, 2014.
3. On March 24, 2014, the Claimant filed a timely hearing request protesting the Department's actions denying Claimant's medical assistance application and reducing his food assistance allotment.

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 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.

Additionally, in this case the Claimant's food assistance budget was reviewed at the hearing. The Department used the correct unearned income with respect to the Claimant's [REDACTED] pension which was [REDACTED], however, the Department may be required to reduce the unearned income received from the [REDACTED] due to repayment of an overpayment. When calculating the unearned income received from the [REDACTED], the Department included [REDACTED] 8 and did not take into consideration that the [REDACTED] had reduced the Claimant's monthly benefit to [REDACTED] due to a recoupment to repay a debt to the [REDACTED] Exhibit 1.

BEM 500, pp.5 (1/1/14)

Returned Benefits

Benefits returned to the issuing agency are not part of gross income. They are excluded as income and assets.

Example: Mary returns her deceased mother's social security check to SSA. Do not enter such payments in Bridges.

Reduced Benefits Due to Overpayment

Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. These amounts are excluded as income.

Exceptions: The following overpayment amounts **must** be included in gross income:

- Any portion of an overpayment (that is normally countable) if the original payment was excluded income when received.
- Cash assistance recoupment amounts due to IPV are automatically counted for FAP in Bridges.
- SSI amounts recouped due to Intentional Program Violation (IPV) are included in countable gross income for cash assistance programs and FAP.

IPV means there is a finding of fraud or an agreement to repay in lieu of prosecution. Do not exclude recouped SSI when IPV information is volunteered by the SSI recipient or other reliable source. Do not initiate any contacts to obtain this information.

Based upon the information provided at the hearing, the Department must verify whether the Claimant is repaying an overpayment of [REDACTED] benefits or some other type of debt. This should be verified by the Department and if the reduction of [REDACTED] benefits is due to overpayment of benefits by the [REDACTED] agency, the FAP budget must be recalculated to adjust the unearned income amount accordingly.

The Claimant withdrew his request for hearing regarding the department's denial of the Claimant's medical assistance application.

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

did not act in accordance with Department policy when it did not consider and verify whether the Claimant's [REDACTED] benefits were subject to a reduction due to an overpayment by the VA per BEM 500.

The Claimant's hearing request with respect to his Medical Assistance Application Denial is WITHDRAWN.

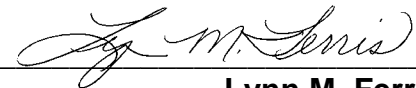
DECISION AND ORDER

Accordingly, the Department's 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. The Department shall determine whether the Claimant's VA benefits were reduced due to an overpayment of VA benefits by the VA.
2. If after verification, the Department determines that VA benefits were reduced due to overpayment of VA benefits to repay the benefits, the Department shall recalculate the Claimant's FAP benefits based upon the reduced unearned income received by Claimant from the VA.
3. The Department shall issue a supplement to the Claimant for any FAP benefits, if any, that Claimant is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 6, 2014

Date Mailed: May 7, 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.

14-000395/LMF

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

cc:

