

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-32756
Issue No(s): 2000;3008
Case No.: [REDACTED]
Hearing Date: April 16, 2014
County: Wayne (18)

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 April 16, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her boyfriend, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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 MA and FAP benefits.
2. On October 19, 2013, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2013, her MA case would be closed based on a failure to return a completed redetermination. (Exhibit 1)
3. In connection with a FAP redetermination, Claimant's eligibility for FAP benefits was reviewed. (Exhibit 2)

4. On February 19, 2014, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2014, she was approved for FAP benefits in the amount of \$262. (Exhibit 6)
5. On March 11, 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).

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department 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 Department of Human Services Bridges Administrative Manual (BAM) 600 (March 2014), p. 6, 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.]

In the present case, on October 19, 2013, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to close her MA case, effective November 1, 2013. (Exhibit 1). Claimant did not file a request for hearing to contest the

Department's action until March 11, 2014. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 6. Claimant was informed that she was entitled to submit a new application for MA benefits and have her eligibility 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 disputing the Department's calculation of her FAP benefits.

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 – 3. The Department will consider the gross amount of income from unemployment benefits as unearned income for the group. BEM 503 (January 2014), p.34. 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. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received bi-weekly is converted to a standard amount by multiplying the average of the bi-weekly paychecks by the 2.15 multiplier. BEM 505, pp. 8.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 3). The Department concluded that Claimant had unearned income of \$1,311 which came from unemployment benefits. The Department stated that in calculating Claimant's unearned income from unemployment, it considered \$610 in bi-weekly unemployment benefits received by Claimant's boyfriend. Although Claimant's boyfriend confirmed that he was previously receiving that amount of unemployment benefits, he also testified that those benefits were terminated and that the last time he received those benefits was March 1, 2014. A review of the unemployment compensation search presented by the Department confirms Claimant's testimony. (Exhibit 4). Therefore, the Department has not properly calculated Claimant's unearned income.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's confirmed group size of three and the excess shelter deduction budget establishes that the \$553.00 standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 14-15. Although Claimant testified that she had a housing expense of \$325, the Department stated that it did not consider any housing expenses, as there were none reported on Claimant's redetermination. A review of the redetermination submitted confirms the Department's testimony and Claimant acknowledged that she did not inform the Department of the housing expense.

Additionally, a \$269 child support deduction was also properly applied. Claimant's boyfriend confirmed making child support payments in this amount monthly and the Department presented documentation in support of its testimony. (Exhibit 5). BEM 554 (February 2014), pp. 6-7.


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 after further review of the evidence presented, because of the errors in the calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to 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 March 1, 2014, ongoing; and
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2014, ongoing.



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

Date Signed: April 22, 2014

Date Mailed: April 22, 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/tlf

cc:

