

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006531
Issue No.: 3001; 2002
Case No.: [REDACTED]
Hearing Date: August 6, 2014
County: WASHTENAW

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, telephone hearing was held on [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Due to changes in expenses and failure to complete redetermination application timely did the Department close Claimant's case and reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | |

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 received: FAP and MA benefits.
2. Subsequently, the Department closed Claimant's case and reduced Claimant's benefits due to excess income.
3. Subsequently, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.

4. On July 3, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Additionally, the Claimant was a recipient of unearned income in the amount of \$ [REDACTED]. The Claimant had an increase in [REDACTED] that resulted in an increase in FAP benefits.

As a result of changes in expenses, the Claimant had a change in FAP benefits. After deductions from her gross income of \$ [REDACTED] of \$ [REDACTED] standard deduction and a medical deduction of \$ [REDACTED] for an adjusted gross income of \$ [REDACTED]. The Claimant was given a total shelter deduction of \$ [REDACTED] resulting from a housing expense of \$ [REDACTED] and heat and utility standard of \$ [REDACTED]. The Claimant was given an adjusted excess shelter deduction of \$ [REDACTED] with a total shelter deduction of \$ [REDACTED] minus 50% of adjusted gross income of \$ [REDACTED]. The Claimant had a net income of \$ [REDACTED] which was the adjusted gross income of \$ [REDACTED] minus the excess shelter deduction of \$ [REDACTED]. With a net income of \$ [REDACTED] the Claimant qualified with a household group size of 1 for a maximum benefit of \$ [REDACTED] plus \$ [REDACTED] in economic recovery minus 30% of net income of \$ [REDACTED] resulting in a net benefit amount of \$ [REDACTED]. However, BRIDGES computed the Claimant's FAP benefits for an incorrect amount of \$ [REDACTED] instead of \$ [REDACTED]. In addition, the Claimant is not being recouped for an overissuance. Department Exhibit 8-10.

The Department has not met its burden that the Claimant had decreased in FAP benefits since BRIDGES made an error in the budget. The Claimant is eligible for \$ [REDACTED] in FAP benefits. BAM 110, 115, and 130.

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. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600, provides in relevant part as follows: The Claimant 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.

The Department sent the Claimant a notice on [REDACTED] that the MA-SLMB would be effective [REDACTED] because the Claimant failed to submit the redetermination application that was due on [REDACTED]. Department Exhibit 3-6. As a result, the Claimant's hearing request is not timely because it was submitted on [REDACTED] to the Department. The Claimant is required to request a hearing within 90 days of a Department's negative action. Therefore, the Claimant's hearing request is dismissed for lack of timeliness. .

The Administrative Law Judge, based upon 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 showed a BRIDGES budget that reflected that the Claimant was eligible for \$ [REDACTED] but only receiving \$ [REDACTED].

DECISION AND ORDER

A. Claimant's MA hearing request was not timely because it was not filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.

B. 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. Initiate a redetermination of the Claimant's eligibility for FAP by running a new budget in BRIDGES to reflect the \$ [REDACTED] in FAP benefits that the Claimant is eligible for and submitting a new BRIDGES ticket for the \$ [REDACTED] difference in benefits received by the Claimant during the contested time period forward.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/14/2014**

Date Mailed: **8/14/2014**

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 Claimant;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CGF/tb

cc:

