

**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.: 14-015904
Issue No.: 2000; 3008
Case No.: ██████████
Hearing Date: December 8, 2014
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

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 December 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████; and Claimant's translator/agency translator, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective October 1, 2014, 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.
2. On September 4, 2014, Claimant submitted a redetermination.
3. On September 26, 2014, Claimant submitted verification of his rent (\$500 monthly) and verification of his income (\$2,488.02 – gross monthly). See Exhibit 1, pp. 8-10.
4. On October 30, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved for \$270 for a group size of five, effective October 1, 2014, ongoing. See Exhibit 2, p. 1.

5. On November 10, 2014, Claimant filed a hearing request, protesting his FAP allotment and Medical Assistance (MA) benefits denial. See Exhibit 1, pp. 3-4.

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 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.

MA benefits

On November 10, 2014, Claimant filed a hearing request, protesting his wife's MA benefits denial. See Exhibit 1, pp. 3-4. Claimant testified that his wife was denied MA benefits approximately six months ago. Nevertheless, Claimant testified that he now disputed his wife's MA deductible. On November 19, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that his wife was approved for MA – Emergency Services Only (ESO) coverage (with a \$681 deductible) for December 2014. See Exhibit 2, p. 2. Also, the determination notice indicated that his wife was not eligible for benefits effective January 1, 2015, ongoing. See Exhibit 2, p. 2. Claimant testified that he disputed this determination notice.

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 (October 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.]

Based on the foregoing information, Claimant's MA hearing request is DISMISSED for lack of jurisdiction. First, Claimant's hearing request was not timely filed within ninety days of his wife's MA denial, which he stated occurred six months ago. Second, Claimant testified that he now disputed the determination notice dated November 19, 2014. Again, this Administrative Law Judge (ALJ) lacks the jurisdiction to address the determination notice because it occurred subsequent to the hearing request. Claimant can request another hearing to dispute the determination notice dated November 19, 2014. See BAM 600, pp. 4-6.

FAP benefits

As a preliminary matter, Claimant testified that he disputed his FAP benefits effective October 1, 2014. Because Claimant's hearing request was submitted in November 2014, this ALJ will also determine if the Department properly calculated Claimant's November 2014 FAP budget.

It was not disputed that no group members are senior/disabled/disabled veteran (SDV) member(s). Also, Claimant testified that there are actually six members in his household, which included his spouse. However, the Department testified that his spouse was not included in the FAP group composition based on her citizenship/alien status. Claimant did not dispute the Department excluding his spouse from the FAP group composition. See BEM 225 (October 2014), pp. 1-37. Thus, the Department properly determined the certified group size as five.

At the hearing, the Department presented the October and November 2014 FAP budgets for review. See Exhibit 1, pp. 57. It should be noted that the same FAP budget was used for both benefit periods as it occurred in the same certification period (October 1, 2014 to September 30, 2015). See Exhibit 1, p. 5.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not

received but expected). BEM 505 (July 2014), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, p. 2. In prospecting income, the Department is required to use income from the past thirty 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. 5.

In this case, the Department calculated Claimant's gross monthly income to be \$2,488. The Department obtained this amount when Claimant submitted verification of his income on September 26, 2014. See Exhibit 1, p. 10. Claimant did not dispute his gross monthly income, but indicated that his net income is only \$2,000. See Exhibit 1, p. 10. Based on the foregoing information and evidence, the Department properly calculated Claimant's gross monthly income based on the submitted pay stub. See BEM 505, pp. 1-8.

The Department then applied the 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$2,488 is \$498, which results in a post earned income of \$1,990 (\$2,488 total income amount minus \$498 earned income deduction). See Exhibit 1, p. 5. The Department then applied the \$192 standard deduction applicable to Claimant's group size of five. RFT 255 (October 2014), p. 1. Once the Department subtracts the \$192 standard deduction, this results in an adjusted gross income of \$1,798. See Exhibit 1.

Additionally, Claimant indicated that he had medical expenses; however, Claimant is not eligible for a medical deduction because he is not an SDV member nor are any of the additional group members. See BEM 554 (October 2014), p. 1 (for groups with one or more SDV member(s), the Department uses medical expenses that exceed \$35). Also, Claimant inquired if his car insurance/gas and clothing expenses can be factored into the FAP budget. A review of policy found that Claimant's car insurance/gas or clothing expenses cannot be applied as a deduction. The Department only allows a medical deduction for actual costs of transportation to secure medical treatment or services. BEM 554, p. 10. But, as stated above, neither Claimant nor any group members are eligible for medical deductions.

Then, the budget indicates that Claimant's monthly housing expense is \$500, which Claimant did not dispute. See Exhibit 1, pp. 7-9. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,053. See Exhibit 1, p. 7. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,798 adjusted gross income. Fifty percent of the adjusted gross income is \$899. See Exhibit 1, p. 7. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$154. See Exhibit 1, p. 7.


The Department then subtracts the \$1,798 adjusted gross income from the \$154 excess shelter deduction, which results in a net income of \$1,644. See Exhibit 1, p. 6. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$277 effective October 1, 2014, ongoing. RFT 260 (October 2014), p. 21.

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 acted in accordance with Department policy when it properly calculated Claimant's FAP benefits effective October 1, 2014, ongoing.

Accordingly, the Department's FAP decision is **AFFIRMED**.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated November 10, 2014) is **DISMISSED** for lack of jurisdiction.


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

Date Signed: **12/10/2014**

Date Mailed: **12/10/2014**

EJF / cl

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 client;
- 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 48909-8139

CC:

[REDACTED]