

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005492 REHNG
Issue No.: 1001, 2001, 3001
Case No.: [REDACTED]
Hearing Date: January 29, 2015
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

REHEARING DECISION

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM) BAM 600 provides that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs at issue, and may be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter is before the undersigned Administrative Law Judge pursuant to Claimant's timely Request for Rehearing/Reconsideration of a hearing decision generated by an administrative law judge (ALJ) at the conclusion of a hearing conducted on [REDACTED], [REDACTED] and mailed to both parties on [REDACTED], in the above-captioned matter. This matter having been reviewed, an Order Granting Reconsideration was generated on [REDACTED].

After due notice, a telephone rehearing was held on [REDACTED], from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified on behalf of Claimant. [REDACTED] [REDACTED] each appeared as Claimant's translator. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearings facilitator.

ISSUES

The first issue is whether Claimant is entitled to an administrative review to change an assigned Department of Human Services (DHS) specialist.

The second issue is whether Claimant is entitled to an administrative review for case actions which occurred after her hearing request submission date.

The third issue is whether DHS properly determined Claimant's Family Independence Program (FIP) eligibility.

The fourth issue is whether DHS corrected an improper reduction to Claimant's Medical Assistance (MA) eligibility.

The fifth issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FIP, FAP, and MA benefit recipient.
2. Claimant received \$492/month in ongoing FIP benefits from DHS.
3. Claimant was a member of a 5-person household.
4. Claimant's son received \$735/month in gross Supplemental Security Income (SSI).
5. Claimant's spouse received \$676.20/month in federally-issued SSI and \$10.50 in state-issued SSI.
6. Claimant paid \$800/month for shelter rent.
7. Claimant reported to DHS no more than \$17/month in medical expenses.
8. On [REDACTED], DHS determined Claimant was eligible for \$360/month in FAP, effective 7/2014, in part, based on the following: \$1958 in unearned household income, \$800 in rent, \$0 medical expenses, and a \$553 standard utility credit.
9. On [REDACTED], DHS mailed Claimant a Health Care Coverage Determination Notice (Exhibit 7) informing Claimant that she and her two children were eligible for emergency services only MA benefits.
10. On [REDACTED], Claimant submitted a hearing request to dispute FIP, MA, and FAP eligibility and to request a new caseworker.
11. On an unspecified subsequent date, DHS corrected Claimant's and her children's MA eligibility to full Medicaid.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant noted special arrangements in order to participate in the hearing. Claimant testified that she has a disabled child and spouse and needed to participate in the hearing via telephone; Claimant's request was granted and the hearing was conducted accordingly. Claimant also requested that one of her witnesses appear by telephone; Claimant's second request was also granted.

During the hearing, Claimant stated that she requested a hearing, in part, to have a new caseworker. Though Claimant's hearing request did not specify the complaint, the verbal complaint will be addressed.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

BAM 600 (7/2013), p. 3.

A complaint about a caseworker is not a valid basis to request an administrative hearing. Claimant's hearing request will be dismissed concerning her complaint of caseworker.

Claimant also requested a hearing, in part, to dispute the amount of FIP benefits issued by DHS. Claimant essentially argued that DHS should have increased her FIP eligibility after her rent and utility obligations increased. Neither rent nor utility expenses are relevant to FIP eligibility (see BEM 520). The only expense factored in a FIP budget is child support; Claimant conceded that she had no child support expenses.

Though Claimant's specific argument was unpersuasive in establishing that DHS under-issued FIP benefits, it is plausible that DHS under-issued FIP benefits to Claimant.

Normally, a full budgetary analysis is needed to determine if DHS issued the correct amount of benefits; in the present case, a full budgetary analysis is unnecessary.

It was not disputed that Claimant was a member of a household of 5 persons. It was not disputed that Claimant's spouse and a child were SSI recipients. SSI recipients are not FIP income group members (see BEM 210). Thus, Claimant is left with a FIP group size of 3 persons (herself and 2 children). The maximum amount of FIP eligibility for a 3-person FIP group is \$492/month. RFT (12/2013), p. 1. It was not disputed that Claimant received \$492/month in FAP benefits from DHS. DHS cannot have under-issued FIP benefits to Claimant if Claimant received the maximum amount of FIP benefits authorized by DHS policy. It is found that DHS did not under-issue FIP benefits.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant testified that she requested a hearing, in part, to dispute her MA eligibility. Claimant's hearing request was completely silent concerning MA eligibility; nevertheless, Claimant's MA eligibility will be addressed.

During the hearing, Claimant alleged that DHS cut off her MA eligibility during a time of pregnancy. Claimant stated that she was pregnant from 11/2014 to 1/2015. Claimant (and her witness) relentlessly alleged that improper MA eligibility lapses caused Claimant to miscarry.

The subject matter of the administrative hearing dated [REDACTED] is restricted to disputes cited in Claimant's hearing request dated [REDACTED]. Claimant did not request a hearing on [REDACTED] to dispute her MA eligibility during a pregnancy that had not yet occurred. Claimant's alleged entitlement to MA eligibility related to her pregnancy (for purposes of this decision) is completely rejected.

As it happened, Claimant separately requested a hearing concerning MA eligibility during her pregnancy. The separate hearing request will result in a separate hearing where Claimant can allege an improper lapse in MA eligibility during her pregnancy. A dispute about Claimant's MA eligibility will be accepted concerning a reduction in MA coverage prior to her hearing request date.

On [REDACTED], DHS notified Claimant that her ongoing MA eligibility would be reduced to "emergency services only" (ESO) MA only. DHS testimony conceded that the MA

benefit reduction was improper. DHS also testified that Claimant's MA eligibility was corrected. Following the hearing, DHS presented Medicaid Eligibility statements (Exhibits 8-14) for Claimant and her two children (presumably, there was no dispute concerning the MA eligibility of the SSI recipients in Claimant's household). The DHS presented documentation verified that Claimant and her 2 non-disabled children received "Full Medicaid Coverage" beginning 7/2014. The documentation was persuasive in establishing that DHS corrected the improper reduction in Claimant's MA eligibility. Claimant is not entitled to further administrative remedy.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Lastly, Claimant disputed her FAP eligibility. Claimant testimony implied that the DHS-issued FAP benefits are not enough for Claimant to buy food for her family. Claimant seemingly argued that any FAP issuance causing Claimant to spend cash for FAP benefits is improper. Claimant supported her testimony by submitting receipts for food purchased with cash (the receipts were not admitted as exhibits).

FAP benefits are not required to be the sole source of a household's food purchases. Claimant's household receives over \$1,900/month in government issued cash benefits. It is unmoving that Claimant may have to spend a portion of her household's government-issued benefits on food.

Claimant testimony also suggested that DHS improperly factored her income and expenses. Claimant's specific arguments will be considered in the budget analysis required by BEM 556. Other budget factors (group members, day care expenses, child support expenses) were not disputed by Claimant and will not be addressed.

The action closest to and before Claimant's hearing request appeared to be reflected on a DHS notice dated [REDACTED] (see Exhibit 3). The notice informed Claimant that she would be eligible for \$360/month in FAP benefits to Claimant, effective 7/2014. It is presumed that Claimant requested a hearing to dispute the case action dated [REDACTED]. The notice included a summary of all FAP budget factors.

DHS budgeted \$1958 in unearned income benefits for Claimant's household. It was not disputed that Claimant's child received \$721/month in federally-issued SSI benefits. It was also not disputed that Claimant's child received \$42/3 months (an average of \$14/month) in state-issued SSI benefits. It was also not disputed that Claimant received \$492/month in FIP benefits. Thus, \$1237/month of Claimant's household income was undisputed. What was in dispute was the remaining \$731 budgeted by DHS.

DHS testimony indicated that \$14/month in state-issued SSI benefits was budgeted for Claimant's spouse; the testimony was not verified. A married person in an independent living arrangement receives \$31.50/3 months (\$10.50/month) in state-issued SSI benefits. RFT 248 (1/2014), p. 1. If DHS testimony is accepted, DHS improperly budgeted Claimant's spouse's SSI eligibility. As it happened, DHS most likely budgeted the proper amount (\$10.50) for Claimant's spouse's state-issued SSI eligibility because it was not disputed that DHS budgeted \$721/month in federally-issued SSI benefits. Thus, DHS properly budgeted Claimant's spouse's state-issued SSI.

It was not disputed that Claimant's spouse's federally-issued SSI eligibility was reduced for recoupment. To justify budgeting income that Claimant's spouse did not receive, DHS cited general garnishment policy (see BEM 500) which states that income reduced for garnishment is countable income. DHS neglected to consider policy more on point to Claimant's spouse's circumstances.

Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (1/2014), p. 5. These amounts are excluded as income. *Id.*

It was not disputed that Claimant's spouse received \$676.20/month in SSI benefits (see Exhibits 4-6) following a reduction for recoupment. Thus, \$676.20 is the proper amount of federally-issued SSI benefits to budget in Claimant's FAP eligibility. This finding is consistent with Claimant's spouse's SOLQ (Exhibits 4-6) which stated that \$676.20 was the "SSI gross payable amount" and DHS policy requiring budgeting of gross SSI income (see BEM 503). It is found that DHS erred by budgeting \$721/month in SSI benefits for Claimant's spouse's income.

Claimant testimony suggested that she spends up to \$50/month in vitamins for her children. Claimant's testimony suggested that an argument that DHS erred by failing to credit her for her vitamin purchases as a medical expense. Claimant did not verify her expenses with receipts. Claimant also did not raise the issue in her hearing request; nevertheless, Claimant's argument will be considered.

Claimant testimony conceded that vitamin expenses were split among her 3 children. Only one of Claimant's 3 children was disabled. Only medical expenses for senior, disabled, or disabled veteran persons may be factored in the FAP budget (see BEM 554). Thus, Claimant's budgetable medical expenses can be no more than \$17/month. DHS applies a \$35/month copayment to medical expenses. After applying the copayment, Claimant is left with \$0/month in medical expenses, the same amount as budgeted by DHS.

Claimant testified that her rent increased to \$800/month. Claimant's FAP eligibility factored a monthly \$800 rent obligation. Thus, Claimant cannot claim that DHS erred concerning budgeting her rent.

Claimant testified that DHS failed to credit her for a monthly \$85 utility obligation. DHS credited Claimant with a \$553 standard utility credit. The \$553 standard utility credit is the maximum allowed by DHS policy (see RFT 255). Claimant is not entitled to a utility credit beyond the maximum utility credit.

Though Claimant made numerous complaints concerning her FAP eligibility, only one mistake was verified. Claimant is entitled to redetermined FAP eligibility for the error concerning her spouse's SSI.

DECISION AND ORDER

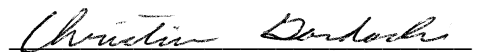
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to a hearing to request a new caseworker. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FIP eligibility, effective 7/2014. It is further found that DHS corrected Claimant's MA eligibility so that Claimant did not have a lapse in coverage. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FAP eligibility. It is ordered that DHS perform the following actions:

- (1) redetermine Claimant's FAP eligibility, effective 7/2014, subject to the finding that DHS is to budget \$676.20 in federally-issued SSI benefits for Claimant's spouse; and
- (2) supplement Claimant for any under-issued benefits.

The actions taken by DHS are **PARTIALLY REVERSED**.


Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: 2/10/2015

Date Mailed: 2/10/2015

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

CG/hw

cc:

