

**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.: 14-014414
Issue No.: 2000; 3008
Case No.: ██████████
Hearing Date: November 19, 2014
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

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 November 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment for October 2014?

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on August 27, 2014?

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 Medical Assistance (MA) and FAP benefits. See Exhibit 1, pp. 13-18 and Exhibit 2, pp. 4-6.
2. On August 27, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective October 1, 2014. See Exhibit 1, pp. 5-6.

3. On August 27, 2014, Claimant attended a previous hearing in which she disputed her MA benefits. See Exhibit A, pp. 1-3.
4. On August 28, 2014, the Administrative Law Judge (ALJ) sent Claimant/Department a D&O in which it ordered the Department to initiate processing of Claimant's application for MA-P dated February 7, 2014, retroactive to January 2014 for MA-P (see Reg. #14-002331). See Exhibit A, pp. 1-3.
5. On September 3, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice), which notified Claimant that she was approved for MA benefits for January 2014. See Exhibit 2, pp. 1-3.
6. On October 17, 2014, Claimant filed a hearing, protesting her FAP allotment and the Department's failure to process the D&O. See Exhibit 1, p. 2.
7. On October 17, 2014, Claimant also provided two medical bills with her hearing request. See Exhibit 1, pp. 4 and 7.

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.

Prior Administrative Hearing

All hearing decisions must be recorded in the system, on the Hearing Restore Benefits screen. BAM 600 (July 2014), p. 40. Some hearing decisions require implementation by the local office. BAM 600, p. 40. The Department implements a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, p. 32. The Department completes the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. BAM 600, p. 42. The Department completes and sends the DHS-1843, Administrative Hearing Order Certification, to the Michigan Administrative Hearing System (MAHS) to certify implementation and place a copy of the form in the case file. BAM 600, p. 42.

In this case, on August 27, 2014, Claimant attended a previous hearing in which she disputed her MA benefits. See Exhibit A, pp. 1-3. On August 28, 2014, the ALJ sent Claimant/Department a D&O in which it ordered the Department to initiate processing of Claimant's application for MA-P dated February 7, 2014, retroactive to January 2014 for MA-P (see Reg. #14-002331). See Exhibit A, pp. 1-3. On October 17, 2014, Claimant filed a hearing request, protesting the Department's failure to process the D&O. See Exhibit 1, p. 2.

At the hearing, Claimant testified that she did not receive a response to whether the Department complied with the order. Furthermore, Claimant testified the benefit month in which she sought MA coverage was January 2014.

In response to Claimant's argument, the Department argued that it did comply with the ALJ order. On September 3, 2014, the Department sent Claimant a determination notice, which notified Claimant that she was approved for MA benefits for January 2014. See Exhibit 2, pp. 1-3. The Department also presented Claimant's Eligibility Summary and Medicaid Eligibility documentation, which confirmed she received full MA coverage for January 2014. See Exhibit 2, pp. 4-6. It should be noted that Claimant testified that she never received the determination notice dated September 3, 2014. Nevertheless, this ALJ lacks the jurisdiction to address Claimant's MA hearing dispute. See BAM 600 (October 2014), pp. 4-6. The evidence indicated that the Department properly complied with the D&O because Claimant received MA coverage for January 2014 (benefit month at issue with Claimant). BAM 600, pp. 40-42 and Exhibit 2, pp. 1-6. As such, Claimant's MA hearing request is DISMISSED for lack of jurisdiction. See BAM 600, pp. 4-6.

FAP benefits

As a preliminary matter, Claimant's FAP benefits increased to \$194 for November 2014. See Exhibit 1, p. 15. As such, Claimant testified that she is only disputed her FAP benefits for October 2014.

In this case, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1, pp. 13-18. 1. On August 27, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective October 1, 2014. See Exhibit 1, pp. 5-6. It should be noted that the FAP decrease was the result of Claimant beginning to receive Social Security income. See Exhibit 1, pp. 1 and 10-12. On October 17, 2014, Claimant filed a hearing, protesting her FAP allotment. See Exhibit 1, p. 2. It should also be noted, though, that Claimant's Eligibility Summary indicated she received \$16 for October 2014 as well as the FAP budget. See Exhibit 1, pp. 13-14, 16-14, and 19. It appears the difference is based on Claimant's standard deduction amount increasing from \$151 to \$154; however, this issue will be addressed below.

It was not disputed that the certified group size is one and that Claimant is a senior/disabled/disabled veteran (SDV) member. The Department presented the October 2014 FAP budget for review. See Exhibit 1, pp. 19-20. The Department calculated a gross unearned income amount of \$1,565. See Exhibit 1, p. 20. This amount comprised of Claimant's Social Security Administration benefits (Retirement, Survivors, and Disability Insurance) and child support income, which she did not dispute. See BEM 503 (July 2014), pp. 6-9 and 28-33; BEM 505 (July 2014), pp. 3-5; and Exhibit 1, pp. 10-12.

Then, the Department properly applied the \$154 standard deduction applicable to Claimant's group size of one, which resulted in an adjusted gross income of \$1,411. RFT 255 (October 2014), p. 1 and see Exhibit 1, p. 19. However, Claimant argued that the Department failed to factor in Claimant's medical expenses as a deduction. The Department calculated zero for Claimant's medical deduction.

For groups with one or more SDV member, the Department allows medical expenses that exceed \$35. BEM 554 (May 2014), p. 1. The Department estimates an SDV person's medical expenses for the benefit period and bases the estimate in factors listed in BEM 554. BEM 554, p. 8. A FAP group is not required to, but may voluntarily report changes during the benefit period. BEM 554, p. 8. The Department processes changes during the benefit period only if they are one of the following:

- Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
- Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

BEM 554, p. 8.

Additionally, groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. BEM 554, pp. 8-9. The Department will allow the expense in the first benefit month the change can affect. BEM 554, p. 9. A list of allowable medical expenses is located in BEM 554, pp. 9-11.

Finally, the Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The expense does not have to be paid to be allowed. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11. The Department allows only the non-reimbursable portion of a medical expense. BEM 554, p. 11. The medical bill cannot be overdue. BEM 554, p. 11. The Department verifies allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554, p. 11. The Department verifies reported changes in the source or amount of medical expenses if the change would result in an increase in benefits. BEM 554, p. 11.

At the hearing, the evidence indicated that Claimant submitted medical bills which totaled \$5,543.02 on October 17, 2014. See Exhibit 1, pp. 28-30. The Department testified that the medical bills were one-time expenses. Furthermore, the Department argued that it processed the medical expenses and this resulted in the FAP benefit increase for November 2014.

Claimant testified that she submitted the medical bills, plus additional medical bills with her original MA application in February 2014. However, it should be noted that Claimant did not receive FAP benefits in February 2014. Claimant testified that she submitted a \$26,000 plus medical bill, a \$5,000 plus ambulance bill, and a \$399 medical bill in February 2014. Moreover, Claimant's testimony appeared to indicate that she submitted collection bills for the medical expenses to the Department on October 17, 2014. Claimant testified that she does have ongoing medical expenses, which consist of her ongoing Blue Care Network premium, prescription co-pays, doctor visits, etc... The Department's evidence packet only indicated that it received an ambulance service bill for \$5,484.28 and a Blue Care Network bill for \$58.74 on October 17, 2014. See Exhibit 1, pp. 4 and 7.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2014), p. 10. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 10. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 10. These include, but are not limited to, changes in health or hospital coverage and premiums. BAM 105, p. 10. For FAP cases, the Department acts on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (October 2014), p. 6. Changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the

change was reported, provided any necessary verification was returned by the due date. BAM 220, p. 6.

Based on the foregoing information and evidence, the Department properly determined that Claimant received zero in medical deductions for the benefit period of October 2014. Claimant credibly testified that she provided medical bills in February 2014 to the Department; however, Claimant did not receive FAP benefits at that time. The evidence indicated that the next time period in which Claimant submitted medical bills and was a recipient of FAP benefits was on October 17, 2014. See Exhibit 1, pp. 4, 7, and 28-30. The evidence presented that Claimant only submitted two medical bills in the amount of \$5,484.28 and \$58.74 on October 17, 2014. See Exhibit 1, pp. 4 and 7. Because Claimant submitted her medical bills on October 17, 2014, this would result in a FAP benefit increase for November 2014 (the next benefit month). See BAM 220, pp. 6-7. Thus, the Department properly did not apply a medical deduction for the benefit month of October 2014. However, the Department did apply a medical deduction for the benefit month of November 2014. Nevertheless, Claimant is not disputing the benefit month of November 2014 and she can file another hearing request if she wishes to dispute the month of November 2014. See BAM 600, pp. 4-6.

Moreover, the Department calculated Claimant's housing costs to be \$510, which she did not dispute. See Exhibit 1, p. 21. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 12-13. 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 \$1,063. See Exhibit 1, p. 21. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,411 adjusted gross income. See Exhibit 1, p. 19. Fifty percent of the adjusted gross income is \$705. When the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,063 shelter income minus $\frac{1}{2}$ of the adjusted gross income), this amount is found to be \$358. See Exhibit 1, p. 21.

The Department then subtracts the \$1,411 adjusted gross income from the \$358 excess shelter deduction, which results in a net income of \$1,053. See Exhibit 1, pp. 19-20. 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 \$16 for October 2014. RFT 260 (October 2014) p. 14.


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 for October 2014.

Accordingly, the Department's FAP decision is AFFIRMED.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated October 17, 2014) is **DISMISSED** for lack of jurisdiction.



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

Date Signed: **11/20/2014**

Date Mailed: **11/20/2014**

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:

