

**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.: 2014-11300
Issue Nos.: 2003, 3008
Case No.: ██████████
Hearing Date: December 5, 2013
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUES

1. Did the Department properly process Claimant's redetermination concerning her Medicare Savings Program (MSP) benefits?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for December 1, 2013, 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 was an ongoing recipient of FAP and MSP benefits.
2. The Department sent a FAP and MSP redetermination to Claimant's old address.
3. On October 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MSP case would close effective November 1, 2013, because she had failed to complete her redetermination.

4. Before October 31, 2013, Claimant came to the Department's local office and completed and submitted her redetermination.
5. On November 1, 2013, Claimant filed a hearing request disputing the Department's actions concerning her FAP and MSP cases.

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 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.

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.

Claimant requested a hearing concerning her MSP and FAP cases.

MSP Case

The Department requires recipients of State benefits to complete redeterminations at least once every twelve months. BAM 210 (October 2013), p. 1. MA benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210, p. 2.

At the hearing, the Department acknowledged that it incorrectly sent Claimant's redetermination to an old address. However, because Claimant completed and submitted the redetermination before the October 31, 2013, expiration of the MSP certification period, Claimant's MSP case never closed despite the October 16, 2013, Notice of Case Action notifying her that her MSP case would close effective November 1, 2013. The Department presented a Notice of Case Action that the worker testified was sent on November 6, 2013, notifying Claimant that she was approved for MSP benefits under the ALMB program for November 1, 2013, ongoing. The Department also presented an eligibility summary confirming Claimant's uninterrupted, ongoing MSP coverage. Because the Department established that Claimant had ongoing, uninterrupted MSP benefits, the Department acted in accordance with Department policy when it processed Claimant's redetermination and did not close Claimant's MSP case.

FAP Case

Although Claimant indicated in her request for hearing that she was concerned about the closure of her FAP case, there was no evidence presented at the hearing that she was notified of a pending FAP closure. At the hearing, however, Claimant clarified that she was concerned about the amount of her monthly FAP benefits, specifically noting that she had received \$200 monthly and was currently receiving \$15 monthly.

The eligibility summary showed that Claimant had received \$200 in monthly FAP benefits in July 2013 and August 2013 but her benefits had decreased to \$16 monthly beginning September 2013 and to \$15 monthly beginning December 2013. Because Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a deduction for verified medical expenses she incurs in excess of \$35. BEM 554 (July 2013), p. 1. The Department explained that Claimant had verified medical expenses totaling over \$2,700 that were considered in the calculation of her FAP budgets for July 2013 and August 2013 and resulted in monthly FAP benefits of \$200. However, the only medical expense in the current budget was \$70, the excess over \$35 for Claimant's Part B Medicare premium.

At the hearing, Claimant testified that she had provided additional medical expenses to the Department on November 15, 2013. Because these expenses were provided to the Department after Claimant filed her hearing request on November 1, 2013, and after the Department had prepared its hearing summary on November 6, 2013, the Department did not have this information at the time it responded to the hearing request. Claimant was advised to request another hearing if she believed that the Department did not properly consider her medical expenses in her ongoing FAP budget.

The Department also testified that no housing expenses were included in the calculation of Claimant's FAP benefits. The Department must consider a client's verified housing expenses in the calculation of the client's FAP benefits. BEM 554, p. 14. Claimant testified that she had verified her housing costs for the first time on November 15, 2013. Again, because Claimant did not provide verification until after the hearing request was filed, the Department acted in accordance with Department policy in excluding the expense prior to receiving verification. If the Department fails to include the shelter expenses in future budgets, Claimant is advised that she may request a hearing to dispute the Department's actions.

The Department testified that Claimant's current FAP benefits were based on her gross monthly unearned income of \$1,194, which Claimant verified. Claimant also verified that she had no child care or child support expenses. The Department testified that Claimant's budget included the \$151 standard deduction available to Claimant's FAP group size of one and the \$553 monthly heat and utility standard applicable to all FAP budgets. These figures were properly applied to Claimant's budget. RFT 255 (October 2013), p. 1. Because the Department paid Claimant's Part B Medicare premium as a consequence of her receipt of MSP benefits, the Department improperly included this medical expense in her budget. However, a review of Claimant's budget shows that the

Department's improper consideration of this medical expense did not affect her FAP eligibility or FAP amount. BEM 556 (July 2013), pp. 1-7; RFT 260 (November 2013), pp. 8-9. Based on the information the Department had at the time it prepared Claimant's FAP budget on November 6, 2013, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for \$16 in monthly FAP benefits for November 2013 and \$15 in December 2013.

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 in processing Claimant's MSP case and providing her with ongoing, uninterrupted MSP benefits and in calculating her FAP benefits based on the verified information it had at the time the budget was calculated.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 10, 2013

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.

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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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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