

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-12359
Issue No.: 2000;3008
Case No.: ██████████
Hearing Date: December 12, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and process her Medical Assistance (MA) benefits?

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 MA benefits.
2. On October 18, 2013, the Department sent Claimant a Notice of Case Action informing her that effective November 1, 2013, she was approved for FAP benefits in the amount of ██████████. (Exhibit 1)
3. Claimant disputed the calculation of her FAP benefits.
4. On October 28, 2013, Claimant submitted a hearing request disputing the Department's calculation of her FAP benefits.

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).

MA

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.

The hearing was requested to dispute the Department's action taken with respect to Medical Assistance (MA) benefits for Claimant's niece. Shortly after commencement of the hearing, Claimant testified that her niece has active and ongoing MA benefits and that there has been no lapse in MA benefits. Claimant stated that she understands and is satisfied with the actions taken by the Department and that she no longer had any issues to address with respect to her MA case. Claimant further stated that she did not wish to proceed with the hearing concerning her MA case. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing regarding the MA case is hereby **DISMISSED**.

FAP

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.

Additionally, Claimant disputed the Department's calculation of her FAP benefits, effective November 1, 2013.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1. In prospecting income, the Department is required to use income from the past 30 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. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by

multiplying the average of the weekly paychecks by the 2.15 multiplier. BEM 505, pp. 8. The Department is to apply a 20% earned income deduction to Claimant's total earned income. BEM 550 (July 2013), p. 1.

At the hearing, the Budget Summary from the October 18, 2013, Notice of Case Action was reviewed. (Exhibit 1). The Department concluded that Claimant had earned income of [REDACTED], which came from bi-weekly pay in the amount of [REDACTED]. Although Claimant confirmed that her FAP group has earned income of [REDACTED] biweekly, after further review, the Department did not properly calculate Claimant's earned income, as the average of the biweekly pay multiplied by 2.15 does not total \$ [REDACTED]

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of five and that the [REDACTED] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department acknowledged that it incorrectly calculated Claimant's housing costs and that this error impacted Claimant's FAP benefits for September 2013, October 2013, and November 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 because of the errors in the calculation of Claimant's earned income and housing costs, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is DISMISSED and 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. Recalculate Claimant's FAP budget for September 1, 2013, ongoing; and
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from September 1, 2013, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2013

Date Mailed: December 16, 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.

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

ZB/tm

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