

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24450
Issue Nos.: 2001, 3008
Case No.: [REDACTED]
Hearing Date: February 24, 2014
County: Wayne (82-35)

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 February 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's mother. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payments Worker.

ISSUES

1. Did the Department properly deny Claimant's application for Medical Assistance (MA)?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) 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. On January 10, 2014, Claimant applied for FAP and MA benefits.
2. On January 13, 2014, the Department sent Claimant a Notice of Case Action denying her MA application.
3. On January 16, 2013, the Department sent Claimant a Notice of Case Action notifying her that she was approved prorated FAP benefits of \$10 for the period

between January 10, 2014, and January 31, 2014, and for monthly benefits of \$15 for March 1, 2014, ongoing.

4. On January 24, 2014, Claimant filed a request for hearing disputing the denial of her MA application and the amount 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).

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.

Additionally, Claimant requested a hearing to dispute the denial of her MA application and the calculation of her FAP benefits.

Denial of MA Application

The Department failed to provide the relevant Notice of Case Action denying Claimant's MA application.

An individual may receive MA coverage if she qualifies under (i) the Modified Adjusted Gross Income (MAGI) methodology and is the parent or caretaker of a child, under age 19, pregnant or recently pregnant, a former foster child, or eligible for Adult Medical Program, or (ii) an SSI-related MA category, which is available if the individual is aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (January 2014), p. 1; BEM 132 (July 2013), p. 1; BEM 135 (July 2013), p. 1; BEM 163 (July 2013), p. 1; BEM 166 (July 2013), p. 1.

At the hearing, Claimant acknowledged that her minor son was not in her care at the time she applied for MA and that she was not disabled. Based on the evidence presented, Claimant did not meet any of the criteria for MA eligibility. Further, the AMP program, which provides limited medical services for persons not eligible for MA coverage, was closed to new enrollees in January 2014, the month of Claimant's

application. BEM 100 (October 2013), p. 6; BEM 640 (July 2013), p. 1. Thus, the Department acted in accordance with Department policy when it denied Claimant's MA application.

Claimant was advised that if her child returned to her care, she could reapply for MA. Claimant should also be advised that the AMP program may be open for enrollment in April 2014.

Calculation of FAP Allotment

In a January 16, 2014, Notice of Case Action, the Department notified Claimant that she was eligible for monthly FAP benefits of \$15.

The Department presented a FAP net income budget showing the calculation of Claimant's monthly FAP benefits. At the hearing, three issues arose concerning the calculation of (1) Claimant's earned income, (2) her unearned income, and (3) her excess shelter deduction.

Earned Income

The budget showed that Claimant had \$896 in earned income from her employment at TJMaxx. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (July 2013), p. 1. 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. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, pp. 5-6. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p. 2.

In this case, Claimant testified that her pay fluctuated, and, if income from December 2013 was used to calculate her gross monthly income, the result would not accurately reflect her ongoing income because she received more work hours than usual in December 2013 due to the holiday season. The Department was not able to identify the paystubs used to prospect Claimant's ongoing monthly income and to show that it considered more than 30 days' income in calculating her earned monthly income. As such, the Department failed to satisfy its burden of showing that it calculated Claimant's earned income in accordance with Department policy.

It is noted that Claimant testified at the hearing that she lost her employment after the application date. The Department is required to process this reported change in accordance with Department policy. See BEM 505, pp 9-11.

Unearned Income

The FAP budget also showed unearned income of \$600, which the Department testified was a contribution to Claimant from her mother. A donation to an individual by family or friends outside the individual's FAP group is the individual's unearned income. BEM 503 (January 2014), p. 10. The Department counts the gross amount actually received, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503, p. 10.

While the Department is required to consider contributions to Claimant from her mother, the evidence in this case does not support the Department's conclusion that Claimant received \$600 monthly. The note Claimant provided to the Department from her mother indicated that her mother provided her between \$400 and \$600 a month when she was able to do so. Based on the verification provided, the Department did not act in accordance with Department policy when it concluded that Claimant received \$600 monthly in unearned income.

Shelter Expenses

Claimant was eligible for an excess shelter deduction to her total income. The excess shelter deduction takes into account Claimant's monthly housing expenses and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size. RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15. Because Claimant is not a senior/disabled/veteran (SDV) member of her FAP group, her excess shelter deduction cannot exceed \$478. BEM 554, p. 1.

In this case, the January 16, 2014, Notice of Case Action shows that the Department considered monthly shelter expenses of \$867.73 in calculating Claimant's FAP benefits. Claimant testified that her monthly shelter expenses for mortgage, homeowner's insurance policy premium and property taxes totaled \$780.88. Claimant is advised that if her monthly shelter expenses have changed, she will be required to verify those changes in order for the Department to continue to consider her housing expenses in the calculation of her FAP benefits. BEM 554, p. 14. Because the Department could not establish what housing expenses it considered in calculating Claimant's monthly shelter expenses, the Department failed to satisfy its burden of showing that it calculated Claimant's excess shelter deduction in accordance with Department policy.

Because the Department could not identify the basis of its calculation of Claimant's earned income and her excess shelter deduction and did not properly calculate Claimant's unearned income, the Department did not satisfy its burden of showing that it calculated Claimant's FAP benefits in accordance with Department policy.

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 denied Claimant's MA application but did not act in accordance with Department policy when it calculated Claimant's monthly FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to denial of Claimant's MA application and REVERSED IN PART with respect to calculation of Claimant's FAP benefits.

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. Reregister and reprocess Claimant's January 10, 2014, FAP application;
2. Notify Claimant in writing of its decision; and
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 10, 2014, ongoing.



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

Date Signed: March 3, 2014

Date Mailed: March 3, 2014

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:

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