

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-25281
Issue No(s): 1000;2000;3008;4000;5000
Case No.: ██████████
Hearing Date: September 15, 2014
County: Wayne (15)

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 September 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP), Medical Assistance (MA), Cash Assistance, and State Emergency Relief (SER) 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 not an ongoing recipient of cash or SER assistance and Claimant did not submit an application for cash or SER assistance.
2. Claimant was an ongoing recipient of FAP and MA benefits.
3. On December 7, 2013, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2014, her FAP benefits would be decreased to \$173 monthly. (Exhibit 1)

4. On January 27, 2014, Claimant submitted a hearing request disputing the Department's actions concerning SER, cash assistance, FAP, and MA program.

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).

Cash Assistance/SER

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Claimant submitted a hearing request disputing the actions of the Department with respect to the cash assistance and SER programs. Soon after commencement of the hearing, the Department testified that Claimant was not an active and ongoing recipient of cash assistance from the State of Michigan or SER assistance. A program request summary was presented showing that Claimant had not submitted an application for cash or SER assistance since 2001 and 2004, respectively. (Exhibit 6). Claimant confirmed the Department's testimony. Therefore, the Department had neither determined Claimant's eligibility for cash and SER assistance, nor had the Department taken any negative action with respect to Claimant's cash and SER benefits prior to her hearing request; therefore, Claimant's hearing request with respect to cash assistance and SER is **DISMISSED** for lack of jurisdiction. BAM 600 (July 2014).

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 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.

Claimant submitted a hearing request disputing the decrease in her FAP benefits to \$173, effective January 1, 2014. (Exhibit 1).

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Retirement, Survivors and Disability Insurance (RSDI), and Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (January 2014), pp. 28,31-32. State SSI Payments (SSP) are issued quarterly and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount as unearned income. BEM 503, p.33.see RFT 248 (January 2014), p.1.

At the hearing, the FAP EDG Net Income Results Budget for January 2014 was reviewed. (Exhibit 2). The Department concluded that Claimant had unearned income of \$755 which it testified came from \$563 in SSI benefits, \$178 in RSDI benefits and \$14 in SSP benefits. Claimant confirmed that the amounts received by the Department were correct and the Department presented a SOLQ and SSP EDG summary in support of its calculation of the unearned income. (Exhibits 3 and 4).

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's group size of one and the Department testified that the \$553.00 standard heat and utility deduction available to FAP recipients was also properly applied. The Department also considered Claimant's housing costs of \$300, which Claimant confirmed were correct. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 12-15.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. The Department testified that because no medical expenses were submitted, this deduction was not considered in the budget.

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 after further review of the evidence presented, the Department properly determined that Claimant had monthly net income of \$53 and that she was eligible to receive monthly FAP benefits in the amount of \$173. RFT 260 (December 2013), p.1. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits, effective January 2014.

MA

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

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 submitted a hearing request disputing the actions of the Department with respect to her MA benefits. At the hearing, the Department testified that Claimant had active and ongoing full coverage MA and that there had been no lapse in her MA benefits. The Department presented a Medicaid Eligibility summary in support of its testimony to establish that Claimant had active and ongoing MA benefits under the MA for disabled SSI recipients program, and that these benefits were ongoing from October 2013 through February 2014.

Therefore, the Department had neither determined Claimant's eligibility for MA nor had the Department taken any negative action with respect to MA benefits within the 90 days prior to the hearing request; therefore, the hearing request with respect to MA is **DISMISSED** for lack of jurisdiction.

DECISION AND ORDER

Accordingly, the hearing request with respect to cash assistance, SER and MA is DISMISSED and the Department's FAP decision is AFFIRMED.



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

Date Signed: September 17, 2014

Date Mailed: September 17, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

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