

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-31414
Issue No(s): 1000;2001;3008;5000
Case No.: [REDACTED]
Hearing Date: April 07, 2014
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 April 7, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), State Emergency Relief (SER), Food Assistance Program (FAP), and 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. There was no negative action taken with respect to Claimant's FIP and SER benefits.
3. On February 13, 2014, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2014, her FAP benefits would be decreased to \$244. (Exhibit 1)

4. Claimant and her husband were approved for MA benefits under the Group 2 Aged, Blind, and Disabled (G2S) program with a monthly deductible of \$1005, effective April 1, 2014. (Exhibit 5, p.11)
5. On March 7, 2014, Claimant submitted a hearing request disputing the Department's actions.

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).

FIP/SER

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 by Mich Admin Code, R 400.7001 through R 400.7049.

The Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency 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 Bridges Administrative Manual (BAM) 600 (July, 2013), p. 4, 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.]

Claimant submitted a hearing request disputing the actions of the Department with respect to her FIP and SER benefits. Soon after commencement of the hearing, Claimant testified that she was not an active and ongoing recipient of FIP and SER benefits and that she had not submitted an application for FIP or SER within the 90 days prior to her filing of a hearing request. Claimant stated that she submitted an application for cash assistance in the summer of 2013 and that her application was denied at that time. Claimant further stated that she submitted an application for SER assistance with relocation services that was denied by the Department, however, Claimant could not recall exactly when the application was submitted. The Department did not have any SER applications registered for Claimant after March 2012.

Therefore, based on the evidence presented, the Department had neither determined Claimant's eligibility for FIP and SER, nor had the Department taken any negative action with respect to Claimant's FIP and SER benefits during the 90 days preceding the filing of her hearing request. Therefore, Claimant's hearing request with respect to FIP and SER is DISMISSED for lack of jurisdiction. BAM 600, p 4. Claimant was informed that she was entitled to submit a new application for FIP and SER assistance to have her eligibility to receive such benefits determined.

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.

Claimant requested a hearing to dispute the amount of her FAP benefits effective March 1, 2014. 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). The Department will count the gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) as unearned income. BEM 503 (January 2014), pp.31-32.

At the hearing, the FAP EDG Net Income Results Budget for March 1, 2014 was reviewed. (Exhibit 2). The Department concluded that Claimant had unearned income of \$1581 which it testified came from \$761 in RSDI benefits for Claimant's husband, \$764 in RSDI benefits for Claimant, and \$56 in RSDI benefits for Claimant's daughter. Claimant disputed these amounts and stated that her daughter does not receive RSDI benefits and hasn't received RSDI benefits in a few years. A review of the SOLQ presented by the Department supports Claimant's testimony that her daughter's RSDI benefits were terminated. (Exhibit 3). The Department acknowledged that there may be some errors in the calculation of Claimant's unearned income.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's confirmed group size of three and the Department testified that it considered Claimant's confirmed housing costs of \$750. The \$553.00 standard heat

and utility deduction available to all FAP recipients was also properly applied. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 14-15.

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, because of the errors in the calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it calculated the amount of Claimant's FAP benefits.

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.

Claimant requested a hearing disputing the Department's calculation of her MA deductible. Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (July 2013), p 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (January 2014), p 1; BEM 166 (July 2013), pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The monthly PIL for an MA group of two (Claimant and her husband) living in Wayne County is \$500 per month. RFT 200 (December 2013), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income is in excess of the \$500, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$500. BEM 545, p 1.

At the hearing, the Department produced a SSI-Related MA budget showing how the deductible in Claimant's case was calculated. (Exhibit 4, p.2). The Department testified that in calculating Claimant's unearned income of \$1525, it considered monthly RSDI benefits for Claimant and her husband as indicated on the SOLQ report. (Exhibit 3). A review of the SOLQ reports presented by the Department reveal that the Department considered incorrect RSDI benefit amounts for Claimant. Therefore, the Department did not properly calculate Claimant's unearned income, and consequently, did not properly calculate Claimant's deductible.

Because BEM 105 provides that persons may qualify under more than one MA category and federal law gives persons the right to the most beneficial category which is

considered the category that results in eligibility or the least amount of excess income, the Department is to determine Claimant's eligibility for the most beneficial MA program, effective April 1, 2014. BEM 105, p.2.

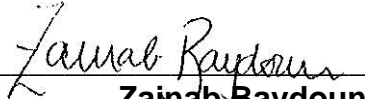
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's MA benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FIP and SER is DISMISSED and the Department's FAP and MA decisions are 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 March 1, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2014, ongoing;
3. Determine Claimant and her husband's MA eligibility under the most beneficial category for April 1, 2014, ongoing, and if necessary, recalculate Claimant and her husband's MA deductible, for April 1, 2014, ongoing;
4. Issue MA coverage to Claimant and her husband for any MA benefits that they were entitled to receive but did not from April 1, 2014, ongoing; and
5. Notify Claimant in writing of its decision.



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

Date Signed: April 11, 2014

Date Mailed: April 11, 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.

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/tlf

cc:

