

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7325
Issue No.: 2026, 3002, 4060, 5000
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 20, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist, and [REDACTED] Specialist.

ISSUES

The first issue is whether DHS properly pursued debt collection actions against Claimant for over-issued FAP benefits.

The second issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility, effective [REDACTED]/2013.

The third issue is whether DHS properly determined Claimant's Medical Assistance (MA) eligibility.

The fourth issue is whether Claimant was denied an administrative hearing concerning State Emergency Relief (SER).

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 FAP and MA benefit recipient.
2. Claimant received \$1101/month in Retirement, Survivors, Disability Insurance (RSDI).
3. On an unspecified date, Claimant signed a repay agreement to pay DHS an unspecified amount for over-issued benefits.
4. Claimant's RSDI income was subsequently garnished due to the repay agreement signed by Claimant.
5. On [REDACTED]/13, DHS determined Claimant to be eligible for \$69 in FAP benefits, effective [REDACTED]/2013.
6. On an unspecified date, DHS determined Claimant to be eligible for Medicaid subject to a \$706/month deductible.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a recoupment of Claimant's ongoing FAP benefit eligibility and/or garnishment of Claimant's SSA income.

For over-issued benefits to clients who are no longer receiving benefits, DHS may request a hearing for debt establishment and collection purposes.

The hearing decision determines the existence and collectability of a debt to the agency. BAM 725 (4/2011), p. 13. Over-issuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

Federal salaries, benefits and tax refunds may be offset to repay any collectible FAP overissuance when there is no payment activity for 60 days. BAM 725 (7/2013), p. 10. Federal payments eligible for offset include RSDI income. *Id.* Existence of an overissuance is shown by a signed repay agreement. *Id.*, p. 19.

Claimant presented a letter (Exhibit 1) verifying a \$165.15 garnishment by DHS. Claimant initially contended that she had no understanding why her RSDI benefits were garnished. Eventually, Claimant testified that she signed a repay agreement. The concession that Claimant signed a repay agreement amounted to a concession that Claimant received an overissuance of FAP benefits which could be garnished by DHS. Claimant did not object to the amount garnished by DHS. It is found that DHS properly pursued debt collection actions against Claimant.

Claimant also objected to her FAP benefit eligibility. During the hearing, all FAP budget factors were discussed with Claimant. Claimant did not dispute any of the amounts budgeted by DHS. It is found that DHS properly determined Claimant's FAP eligibility.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a determination that she is eligible for Medicaid subject to a deductible. Claimant contended that she should be eligible for Medicaid without a deductible.

Clients may qualify under more than one MA category. BEM 105 (10/2010), p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility or the least amount of excess income. *Id.*

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.*

As a disabled person, Claimant may qualify for MA benefits through Aged-Disabled Care (AD-Care) or Group 2 Spend-Down (G2S). AD-Care and G2S are both SSI-related categories. BEM 163 outlines the proper procedures for determining AD-Care eligibility. BEM 166 outlines the proper procedures for determining G2S eligibility.

It was not disputed that Claimant's gross monthly RSDI was \$1101/month. For purposes of AD-Care eligibility, DHS allows a \$20 income disregard. DHS also gives budget credits for employment income, guardianship/conservator expenses and cost of

living adjustments (COLA) (for January through March only). Applying the \$20 disregard to the \$1101 income results in a countable income of \$1081.

Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (10/2010), p. 1. The net income limit for AD-Care for a one-person MA group is \$958/month. RFT 242 (4/2013), p. 1. As Claimant's group's countable income exceeded the AD-Care income limit, it is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Claimant may still receive MA benefits, subject to a monthly deductible through the G2S program. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. BEM 545 (7/2011), p. 9. The client must report medical expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*

The deductible is calculated by subtracting the Protected Income Level (PIL) from the MA net income. The protected income level (PIL) is a standard allowance for non-medical need items such as shelter, food and incidental expenses. The PIL for Claimant's shelter area and group size is \$375. RFT 240 (7/2007), p. 1.

The G2S budget factors insurance premiums, remedial services and ongoing medical expenses. Claimant did not allege to have any eligible expenses. Subtracting the PIL and \$20 disregard from the group's income results in a monthly deductible of \$706, the same determination made by DHS.

Claimant testified that she has severe medical problems. Claimant's testimony is irrelevant to a deductible determination, which only factors income and expenses. If Claimant incurs medical expenses, those may be submitted to DHS to meet her deductible.

Claimant alleged that she submitted medical expenses to DHS, which should be applied to her deductible. DHS responded that Claimant did not. Claimant failed to bring medical expenses to the hearing which meet or exceed her deductible. It is found that Claimant did not meet her Medicaid deductible.

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. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing, in part, to dispute a failure by DHS to process SER eligibility. Claimant testified that she applied for emergency food and medical from DHS on [REDACTED]/13.

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.


DHS presented testimony that Claimant completed an SER application requesting food and medical. DHS presented testimony that Claimant was advised that SER was an inappropriate method to seek food and medical assistance. DHS presented testimony that Claimant was told to complete an Assistance Application to request FAP and MA benefits. Claimant did not dispute the DHS testimony. Based on the presented evidence, DHS appropriately advised Claimant. Claimant is not entitled to a remedy for SER for items not covered by the SER program.

Claimant also testified that she applied for SER multiple times several months ago. Claimant testified that she requested a hearing in writing and was denied a hearing in writing. Claimant failed to provide proof of the written denial of a hearing request. Claimant's failure to provide the written denial harmed Claimant's credibility. It is unlikely that Claimant was denied a hearing request in writing or that she requested a hearing for SER denial from several months ago. It is found that Claimant was not denied an SER hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to a remedy for SER because Claimant failed to apply for eligible SER services. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP and MA eligibility. It is further found that DHS properly pursued debt collection remedies against Claimant. The actions taken by DHS are **AFFIRMED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/27/2013

Date Mailed: 11/27/2013

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

CG/hw

cc:

