

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-018627  
Issue No.: 1001, 2001, 3008, 4001, 5001  
Case No.: [REDACTED]  
Hearing Date: January 27, 2015  
County: Saginaw

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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, telephone hearing was held on January 27, 2015, from Lansing , Michigan. Participants on behalf of Claimant included [REDACTED] and her husband [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator.

**ISSUES**

Did the Department properly deny the Claimant's application for cash assistance?

Did the Department properly determine the Claimant's eligibility for Medical Assistance (MA)?

Did the Department properly determine the Claimant's eligibility for the Medicare Savings Program (MSP)?

Did the Department properly determine the Claimant's monthly allotment of Food Assistance Program (FAP) benefits?

Did the Department properly deny the Claimant's application for 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. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant is an ongoing Medical Assistance (MA) recipient.
3. On September 30, 2014, the Claimant applied for cash assistance (Family Independence Program (FIP)/State Disability Assistance (SDA)).

4. On September 30, 2014, the Claimant applied for the Medicare Savings Program (MSP).
5. There are no members of the Claimant's benefits group that are less than 18-years-old.
6. There are no members of the Claimant's benefit group that have been found to be disabled.
7. On September 30, 2014, the Claimant applied for State Emergency Relief (SER) benefits requesting assistance with heat and electric expenses.
8. On November 12, 2014, the Department received the Claimant's request for a hearing.

### **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 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 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.

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.

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.

A Family Independence Program (FIP) benefit group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. Department of Human Services Bridges Eligibility Manual (BEM) 210 (July 1, 2013), p 1.

State Disability Assistance (SDA) is a cash program for individuals who are not eligible for Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. Department of Human Services Bridges Eligibility Manual (BEM) 214 (April 1, 2014), p 1.

The Claimant applied for cash assistance on September 30, 2014. There are no members of the Claimant's benefits group that are less than 18-years-old or disabled. Therefore, the Claimant does not meet the criteria to receive cash assistance under the Family Independence Program (FIP) or the State Disability Assistance (SDA) programs.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. Department of Human Services Emergency Relief Manual (ERM) 301 (February 1, 2015), p 1.

On September 30, 2014, the Claimant applied for State Emergency Relief (SER) benefits requesting assistance with heat and electric expenses. The Department denied the Claimant's application because it was not received during the crisis season as directed by ERM 301.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

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 (March 1, 2014), 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 Claimant is an ongoing Medical Assistance (MA) recipient. The Department's representative testified that the Claimant and each of the members of her household have been approved for Medical Assistance (MA) benefits. The Claimant has failed to establish a negative action as defined by BAM 600 for which an administrative hearing can be granted.

The Medicare Savings Program (MSP) under the Additional Low Income Medicare Beneficiary (ALMB) category pays Medicare Part B premiums provided funding is available. The Department of Community Health notifies the Department of Human Services if funding is available. Additional Low Income Medicare Beneficiary (ALMB) coverage is available for retro Medical Assistance (MA) months and later months; however, not for time in a previous calendar year. Department of Human Services Bridges Eligibility Manual (BEM) 165 (January 1, 2015), pp 1-3.

The Claimant applied for Medicare Savings Program (MSP) on September 30, 2014, and was approved for Medical Assistance (MA) benefits. The Department failed to establish that it properly determined the Claimant's eligibility for the Medicare Savings Program (MSP).

The Claimant is an ongoing Food Assistance Program (FAP) recipient. On November 17, 2014, the Department notified the Claimant that it would reduce her monthly allotment of Food Assistance Program (FAP) benefits to \$338. The Department conceded that it may have improperly determined the Claimant's prospective self-employment income.


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 the Claimant's applications for cash assistance and State Emergency Relief (SER) benefits. The Claimant's request for a hearing is dismissed with respect to the Medical Assistance (MA) only. The Department did not act in accordance with Department policy when it determined the Claimant's Food Assistance Program (FAP) eligibility.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Family Independence Program (FIP), State Disability Assistance (SDA), and State Emergency Relief (SER) benefits and **REVERSED IN PART** with respect to the Food Assistance Program (FAP). The Claimant's request for a hearing is **DISMISSED** with respect to the Medical Assistance (MA) program only. The Department failed to establish that it properly determined the Claimant's eligibility for the Medicare Savings Program (MSP).

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. Initiate a determination of the Claimant's eligibility for the Medicare Savings Program (MSP) as of September 30, 2014.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of November 1, 2014.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Acting DHS Director  
Department of Human Services

Date Signed: **2/4/2015**

Date Mailed: **2/4/2015**

KS/las

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

