

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

IN THE MATTER OF:

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Reg. No.: 15-007155
Issue No.: 1000;2000;3008
Case No.: ██████████
Hearing Date: June 04, 2015
County: Wayne-District 19 (Inkster)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her daughter, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), Medical Assistance (MA), and 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. Claimant was an ongoing recipient of FIP, MA and FAP benefits.
2. On December 5, 2014, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2015, her FIP case would be closed on the basis that the amount of her court ordered child support was greater than the amount of the FIP grant. (Exhibit E)
3. Claimant's hearing request with respect to FIP was untimely.
4. Claimant had active and ongoing MA benefits with no lapse in her coverage.
5. In April 2015, an administrative hearing was held, at the conclusion of which Claimant was found to have committed an intentional program violation of the FAP

on the basis that she trafficked FAP benefits and received an overissuance in the amount of \$1145.57.

6. On April 24, 2015, the Department sent Claimant an Intentional Program Violation Client Notice informing her that she would be disqualified from receiving FAP benefits for 24 months and that she would be ineligible from June 1, 2015, to May 31, 2017. The Notice also informs Claimant that after removing the disqualified member's needs and starting administrative recoupment, the monthly FAP allotment will be reduced to \$277, effective June 1, 2015. (Exhibit A)
7. On April 24, 2015, the Department sent Claimant a Notice of Case Action informing her that effective June 1, 2015, her FAP benefits would be decreased to \$194 monthly for a group size of three. (Exhibit B)
8. From February 1, 2015, to May 31, 2015, the Department was improperly budgeting child support income in calculating the amount of Claimant's FAP benefits. The Department determined that due to agency error, Claimant was eligible for a total supplement of \$692. (Exhibit E)
9. On April 30, 2015, Claimant submitted a hearing request disputing the Department's actions with respect to her FIP, MA, and FAP benefits.

CONCLUSIONS OF LAW

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

FIP/MA

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 Department of Human Services) 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-.3131.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The hearing was requested to dispute the Department's action taken with respect to Claimant's MA and FIP benefits. Shortly after commencement of the hearing, Claimant testified that she now understood the actions taken by the Department with respect to her MA case and stated that she did not wish to proceed with the hearing. Claimant stated that she no longer needed a hearing concerning her MA case as she had active and ongoing MA coverage. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request concerning MA.

Additionally, MAHS may grant a hearing about a 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 or delay of any action beyond the standards of promptness. BAM 600 (April 2015), pp.4-5. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Claimant was an ongoing recipient of FIP benefits and was previously receiving child support on behalf of her son. On December 5, 2014, the Department sent Claimant a Notice of Case Action informing her that effective January 1, 2015, her FIP case would be closed on the basis that the amount of her court ordered child support was greater than the amount of the FIP grant. (Exhibit E). Claimant confirmed that she received the December 5, 2014, Notice of Case Action. Claimant did not request a hearing to dispute the Department's action until April 30, 2015.

At the hearing, Claimant testified that she submitted an application for FIP benefits to the Department in February 2015 and that she had not received any communication from the Department concerning the application. The Department testified that it did not have a record of any FIP applications registered for Claimant on Bridges since the one submitted in 2011. Claimant was unable to provide any additional evidence to support her testimony that she completed and submitted a FIP application in February 2015 that the Department failed to process. Thus, Claimant's hearing request with respect to FIP application was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. Claimant was informed that she was entitled to submit a new application for FIP benefits and have her eligibility determined.

Thus, the Request for Hearing concerning the MA and FIP is hereby, **DISMISSED**.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Claimant requested a hearing disputing the Department's actions with respect to her FAP benefits for the period of June 1, 2015, ongoing. At the hearing, it was established that following a hearing decision issued on April 21, 2015, finding that Claimant had committed an intentional program violation concerning her FAP benefits and ordering the Department to disqualify Claimant from her FAP group for 24 months and to begin recouping \$1,145.57 in overissued FAP benefits, the Department sent Claimant an Intentional Program Violation Client Notice on April 24, 2015, notifying her that, effective June 1, 2015, she was removed from her FAP group for 24 months and her FAP benefits were reduced to \$277. That same day, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were being reduced to \$194 effective June 1, 2015, after her group size was reduced to three, excluding her as a group member and that \$83 was being administratively recouped by the Department to repay the \$1145.57 overissuance. (Exhibit A and Exhibit B).

At the hearing, the Department testified that, after Claimant requested a hearing, the Department recalculated her FAP benefits and determined that, because child support income had been improperly included in the FAP budget, Claimant's FAP group was actually eligible for \$449 in monthly FAP benefits effective June 1, 2015, and that the group was eligible for a supplement of \$692 for underissued FAP benefits for February 1, 2015, through May 31, 2015. (Exhibit C, Exhibit D, and Exhibit E). At the hearing, Claimant expressed concerns regarding the calculation of her FAP benefits and the issuance of the FAP supplement.

BAM 406 (July 2013), p. 1, provides as follows:

Supplements correcting underissuances in previous months may be “**offset**” against overissuances. This means that the amount of the overissuance is subtracted from the amount of the supplement. This might result in the whole supplement being credited.

Offsetting occurs when:

- The benefit recovery system shows an overissuance balance, **and**
- A supplement is authorized to correct a previous month(s) underissuance, **and**
- The supplement was ordered by a court or administrative law judge and the order does **not** specifically prohibit offsetting.

Offsetting is done automatically by Bridges.

Therefore, the \$692 supplement due to Claimant's FAP group because of the underissued FAP benefits for February 1, 2015, to May 31, 2015, if not already done so, is to be applied to the \$1145.57 overissuance Claimant owes to the Department, which will reduce the overissuance to \$453.57. Although the Department testified that any

supplement is going to be applied to the overissuance, the Department did not present evidence showing that the supplement was applied to, and reduced the overissuance as of the hearing date. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy.

Claimant also challenged the calculation of her group's monthly FAP allotment for the period of June 1, 2015. The Department presented a FAP EDG Net Income Results Budget for June 2015 which was reviewed at the hearing. (Exhibit C). Clients with active FAP programs are subject to administrative recoupment for repayment of overissuances which continues until program closure or all collectible overissuances are repaid. BAM 725 (July 2014), p. 6. Where a client had been found to have committed an IPV concerning FAP, FAP benefits are reduced for recoupment by 20% of the **monthly FAP entitlement**. BAM 725, p. 7. The monthly FAP entitlement amount is the amount of FAP a group would receive if any IPV-disqualified members were included in the eligible group. BMA 725, p. 7.

In this case, the Department concluded that, once it began on June 1, 2015, to administratively recoup a portion of Claimant's FAP benefits to repay the overissuance, Claimant's FAP group would receive \$332 in monthly FAP benefits, the difference between the \$449 it was eligible to receive and the \$117 the Department was retaining to repay the overissuance. (Exhibit C).

In calculating a client's FAP benefits, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. With respect to unearned income, the Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28, 31-32.

The Department concluded that Claimant had unearned income of \$747 which it testified consisted of monthly SSI benefits. Claimant confirmed that she receives monthly SSI benefits in that amount, therefore, the Department properly calculated Claimant's unearned income. The deductions to income on the net income budget were also reviewed. In this case, there was no evidence presented that Claimant had any earned income, dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on the decreased three-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1. In calculating the \$388 excess shelter deduction, the Department considered Claimant's confirmed housing expenses in the amount of \$131 and the \$553 heat and utility standard. BEM 550 (February 2014), pp. 1-2; BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

A review of the budget shows that the Department properly concluded that Claimant's group had net income of \$205. If Claimant was included in the group, the group would

have been eligible for \$587 in FAP benefits. RFT 260. Therefore, the Department is entitled to recoup \$117, which is 20% of \$587. Once Claimant was removed from the FAP group because of the IPV disqualification, the group size was three. Based on a group size of three and net income of \$205, Claimant's FAP group was eligible for \$449 in monthly FAP benefits. This amount, reduced by the monthly \$117, which is administratively recouped and applied towards the overissuance, results in a monthly FAP issuance of \$332, as shown on the budget.

Therefore, the Department acted in accordance with Department policy when it calculated the amount of FAP benefits Claimant's FAP group was eligible to receive following the application of the IPV disqualification and repayment of the overissuance.

DECISION AND ORDER

Accordingly, the hearing request with respect to FIP and MA is **DISMISSED** and the Department's FAP decision is **AFFIRMED IN PART** with respect to calculation of Claimant's FAP benefits for June 1, 2015, and **REVERSED IN PART** with respect to the application of the \$692 underissuance/supplement towards Claimant's \$1145.57 overissuance.

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. Apply the \$692 underissuance/supplement to offset the overissuance remaining; and
2. Notify Claimant in writing of the Department's actions.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/15/2015**

Date Mailed: **6/15/2015**

ZB / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

