

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011194
Issue No.: 3008, 2001
Case No.: [REDACTED]
Hearing Date: August 17, 2015
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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. telephone hearing was held on August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED] the Claimant's Authorized Hearing Representative also appeared. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) for May 2015?

Did the Department properly reduce the Claimant's FAP allotment?

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 was an ongoing recipient of both FAP and MA benefits.
2. On [REDACTED] the Department issued a Notice of Case Action reducing the Claimant's FAP benefits effective [REDACTED], and closing the MA benefits for May 2015. Exhibit 1
3. The Department reduced the Claimant's FAP benefits because it improperly failed to include the heat and utility allowance when calculating the FAP benefits, as conceded by the Department at the hearing. The Claimant has an air conditioner and presented a utility bill for electricity. Exhibit 2

4. The Department closed the MA case due to excess assets based upon a checking account statement. Claimant Exhibit A
5. The Claimant also requested a hearing regarding the termination of her home help services, which was not heard as the undersigned had no jurisdiction to hear the case and it must be reassigned by MAHS for hearing with the appropriate judge.
6. The Claimant requested a hearing on [REDACTED], protesting the Department's actions.

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).

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.

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.

In this case, the Department reduced the Claimant's FAP benefits to \$16 a month. The reduction was due in part to the removal, by the Department, of the heat and utility standard of \$553 as a housing cost. At the hearing, the Department conceded this was in error as the Claimant has a window air conditioner and provided a utility bill. Department policy provides:

Cooling Separate from Housing Costs

FAP groups who pay for cooling (including room air conditioners) are eligible for the h/u standard if they verify they have the responsibility to pay for non-heat electric. BEM 554 (October 1, 2014), p. 16

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for electric expenses. BEM 554, p. 17.

In addition, at the hearing, the Claimant advised that her rent was \$189 not \$250 (the amount the Department used to calculate Claimant's FAP benefits). Thus, based upon the evidence presented at the hearing and the Department's concession that the heat and utility standard should have been included, the Department must recalculate the FAP benefits.

The Claimant should also be aware that while the heat and utility allowance will now be restored, which will give Claimant more housing expenses, the fact that the Claimant's rent is reduced must also be considered as the lower rent amount may lower the FAP benefits received because the rent expense is lower.

As regards the closure of the Claimant's MA benefits due to excess assets for May 2015, the Department found that the cash amount in the Claimant's checking account caused her to be over the \$2000 asset limit found in BEM 400 (July 1, 2015), p.6.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p.7.

At the hearing, the Claimant provided her checking account statements for April and May 2015. Claimant Exhibit A. A review of the account balances shows that for both months, April and May, the Claimant's balances were less than or equal to \$2,000 (asset limit) for at least one day during the month and thus the Department provided no basis for the MA closure based upon bank account information.

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 did not act in accordance with Department policy when it closed the Claimant MA case for May 2015 due to excess assets and reduced the Claimant's FAP benefits when it removed the heat and utility allowance.

DECISION AND ORDER

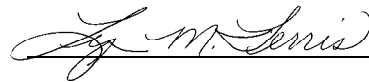
Accordingly, the Department's decision is

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. The Department shall reinstate the Claimant's MA case effective [REDACTED], for the month of May 2015.
2. The Department shall recalculate the Claimant's FAP benefits for [REDACTED], ongoing and shall include the heat and utility standard of \$553; and, shall include rent in the amount of \$189, not \$250. The Department may seek verification if necessary for the claimant's rent.
3. The Department shall issue a FAP supplement to the Claimant after recalculating the FAP benefits, if after the recalculation the Claimant's is eligible for the FAP supplement, in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/18/2015**

Date Mailed: **8/18/2015**

LMF / hw

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

cc:

