

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-012688
Issue No.: 3007
Agency Case No.: [REDACTED]
Hearing Date: August 26, 2015
County: Genesee (6) Clio Rd

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 August 26, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Hearing Facilitator, [REDACTED].

ISSUE

Did the Department properly deny the Claimant's request to increase her monthly Food Assistance Program (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 is an ongoing recipient of monthly FAP benefits in the amount of \$ [REDACTED].
2. On March 17, 2015, the Claimant had a redetermination form for her Medical Assistance (MA) case mailed to her. On April 28, 2015, the Claimant completed and submitted the redetermination form to the Department.
3. The Department's testimony at the hearing was that the Claimant's MA redetermination was not processed until the end of May, 2015. Therefore, due to the length of time between the mailing of the redetermination form and the processing of the case, the Claimant was responsible for paying her Medicare part B premium.
4. On July 7, 2015, the Department received the Claimant's written hearing request protesting that her FAP benefits did not increase even though she had the medical expense of her Medicare part B premium.

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.

In this case, it is not contested that the Claimant will be reimbursed for the part B premiums that have been deducted from her Social Security checks. The Department testified that it takes up to four months for the Social Security Administration to reimburse the Claimant.

Bridges Administrative Manual (BAM) 810 (2015) p. 8, provides that it does take the Social Security Administration (SSA) about 120 days after processing to adjust the Claimant's check. The Claimant will receive a refund for premiums paid while the buy-in was being processed. Bridges Eligibility Manual (BEM) 554 (2014) p. 2, provides that an expense that is fully reimbursed is not allowed in an FAP budget. As such, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when refusing to allow the Claimant's Medicare part B expense, because it is fully reimbursable.

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 did not increase the Claimant's FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Susanne E. Harris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **8/31/2015**

SEH/jaf

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:

