

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-004929
Issue No.: 3008, 2000, 5001
Case No.: ██████████
Hearing Date: May 04, 2015
County: WAYNE-DISTRICT 76
(GRATIOT/SEVEN M)

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 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on May 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ Hearing Facilitator, and ██████████ Assistance Payments Worker.

ISSUE

Did the Department properly determine the Claimant's request for SER?

Did the Department correctly calculate the Claimant' FAP for February and March 2015?

Did the Department properly close the Claimant's Medical Assistance due to the change for the Claimant from SSI to RSDI?

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 FAP benefits. Exhibit F.
2. The Claimant's FAP was adjusted on April 1, 2015 due to changes in group size to three persons and is currently \$298. Claimant's FAP group size is three, the rent is \$700 and the Claimant was receiving \$790 in RSDI and her son received

\$659.70 at the time of the hearing request. In addition, the Claimant and her son received a quarterly supplement of \$14 monthly. The Department also included a \$553 Heat and Utility Standard expense. Exhibit G and H.

3. The Claimant applied for SER on March 23, 2015 requesting rent, and heat and electric utility assistance. Exhibit F
4. The Department issued an SER decision on March 25, 2015 finding that the Claimant had to make a copayment of \$588.34 in order for the Department to pay its share of the utility costs for heat. The Claimant's payment for rent was determined to be \$2772 and the Department was not going to pay anything due to the fact that the total due for utilities and rent results in a shortfall of \$2089. The Claimant was required to pay \$588.34 for Heat and \$2772 for rent. Exhibit D.
5. The Claimant did not make her copayment of \$588.34 for heat; however, her heating bill was paid by another agency that rendered Claimant assistance and paid the heat bill in full. Therefore neither heat nor electric SER remains an issue.
6. At the time of the SER Decision Notice denying rent assistance was due to a shortfall.
7. The Claimant at the time of the SER application was receiving unearned income in the amount of \$790 in RSDI and her son was receiving \$659.70 in SSI. Exhibit C.
8. The Department closed the Claimant's Medical Assistance effective June 1, 2015 ongoing. The Health Care Determination Notice was issued April 29, 2015. The Claimant must reapply for Medical Assistance. Exhibit B
9. The Claimant requested a hearing on March 23, 2015 requesting a hearing regarding SER, Medical Assistance and FAP.

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.

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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, the Claimant requested a hearing regarding her food assistance benefit amount, the closure of her Medical Assistance and an SER decision notice denying her SER for rental assistance.

Medical Assistance

The Claimant's hearing request is dated received by DHS on March 23, 2015 and the Department and Claimant's SSI based MA closed effective June 1, 2015. Exhibit B. The Health Care Determination Notice was sent to the Claimant on April 29, 2015. It appeared from the evidence and testimony of the Department that the Medical Assistance closed due to a change in benefits for the Claimant from SSI to RSDI. Based upon the fact that the Claimant's hearing request pre-dates the Department's action closing her Medical Assistance, there is no action which can be reviewed as the action closing the MA case occurred after the Claimant's hearing request; therefore, there is no jurisdiction to hear this issue. As stated at the hearing the Claimant may request another hearing on the April 29, 2015 Notice.

Food Assistance

As regards the Claimant's hearing request regarding her Food Assistance (FAP), the Claimant sought a review of the FAP benefit amount. The Claimant at the time of the hearing was receiving \$291 based upon the FAP budget presented at the hearing. The Claimant's son was a FAP group member and also received unearned income. The Claimant's group size was three, the rent used was \$700, and the unearned income amount of \$1477 was used. Exhibit G and H. At the time the budget was computed in February of 2015 the Claimant was receiving \$790 in RSDI and \$14 in SSP quarterly supplement. The Claimant's son was receiving \$659 and an SSP quarter supplement of \$14 a month. Both these incomes were confirmed at the hearing as correct. Thus the total gross income was correctly calculated and added up to \$1477. Based upon a review of the budget and the excess shelter calculation and group size, it is determined that the Department correctly calculated the FAP benefits. The Department also correctly issued a FAP supplement to the Claimant for February to correct the benefit amount.

State Emergency Relief

In this case the Claimant sought SER assistance regarding her past due rent in the amount of \$2772 and heat and electric. The Claimant's SER application was filed on March 23, 2015. Exhibit F. The Department issued an SER Decision Notice on March 25, 2015. The Department found the Claimant was required to make a copayment of \$588.34 before it could contribute its share for heat arrears. Exhibit D. The Claimant's copayment for rent was \$2772 for a total copayment of \$3360.34 due to \$2089 in unmet required payments (Shortfall). The Claimant had not paid rent in the past 6 months and at the time of the hearing she had made some payments although no receipts were available, nor were they provided to the Department at the time of its SER Decision Notice. Notwithstanding the Claimant's failure to make rent payments, the information the Department provided did not reflect the correct income and therefore must be recalculated. A budget was not presented to demonstrate how the shortfall was determined. At the time of the hearing, the Claimant had received assistance for the entire heating bill and therefore no issue remained regarding the Department's determination regarding heat utility assistance.

Based upon the evidence presented it was not demonstrated how the Department determined the denial of the SER application for rent assistance and did not meet its burden of proof and therefore must redetermine the eligibility of the Claimant regarding the SER shortfall.

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 demonstrate that the Department acted in accordance with Department policy when it denied the Claimant's SER request due to a shortfall.

The Department acted in accordance with Department policy when it calculated the Claimant's FAP benefits.

There is no jurisdiction to determine whether the Department properly closed the Claimant's Medical Assistance.

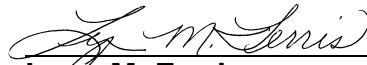
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** (FAP).

The Claimant hearing request dated March 23, 2015 regarding closure of the Medical Assistance is **DISMISSED for lack of jurisdiction**.

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 recalculate the Claimant's shortfall and/or copayment for rent assistance and determine eligibility. The Department shall provide its decision to the Claimant by SER Decision Notice.



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

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

LMF / cl

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:

[Redacted list of email addresses]