

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

IN THE MATTER OF:



Reg. No.: 15-008572
Issue No.: 3001 5001
Case No.: [REDACTED]
Hearing Date: June 29, 2015
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, a telephone hearing was held on June 29, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly determined Claimant's State Emergency Relief eligibility for natural gas bill assistance.

The second issue is whether MDHHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 FAP benefit recipient.
2. Claimant's monthly employment income was \$978.
3. Claimant's monthly housing obligation was \$14.
4. On [REDACTED], Claimant applied for SER seeking assistance with a \$331.78 natural gas bill.

5. On [REDACTED], MDHHS determined Claimant was eligible for \$77.78, subject to a \$254 copayment to be made by [REDACTED].
6. On [REDACTED], MDHHS determined Claimant to be eligible for \$98 in FAP benefits, effective June 2015, in part, by factoring \$978 in employment income and a housing obligation of \$14.
7. On [REDACTED], Claimant requested a hearing to dispute her FAP, SER and Medical Assistance (MA) eligibility.
8. Claimant testified that she no longer has a dispute concerning MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute her MA eligibility. Specifically, Claimant stated that her son's MA was improperly terminated. MDHHS responded that Claimant's son's MA changed because he was recently approved for Supplemental Security Income (SSI) benefits. MDHHS also clarified that Claimant's son never stopped receiving MA benefits. Claimant did not dispute the MDHHS testimony.

Claimant testified that she no longer disputed her child's MA eligibility. Claimant's hearing request will be dismissed concerning MA benefits due to Claimant's withdrawal of her hearing request.

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

Claimant requested a hearing, in part, to dispute her FAP eligibility from June 2015. BEM 556 outlines how MDHHS is to calculate FAP eligibility.

MDHHS calculated Claimant's gross monthly employment income to be \$978. Claimant was uncertain if her monthly income was properly calculated.

MDHHS testified that Claimant's earned income was based on Claimant's pays from [REDACTED]. MDHHS presented a payroll summary verifying that Claimant received the following gross pays: \$416 on [REDACTED], \$546 on [REDACTED], \$175.50 on [REDACTED], \$0 for [REDACTED], and \$0 on [REDACTED].

MDHHS converts weekly non-child support income into a 30-day period by multiplying the income by 4.3. BEM 505 (7/2014), p. 6. Multiplying Claimant's average weekly income by 4.3 results in a monthly income of \$978 (dropping cents). It is found that MDHHS properly calculated Claimant's employment income.

MDHHS counts 80% of a FAP member's timely reported monthly gross employment income in determining FAP benefits. Applying the 20% deduction to the employment income creates a countable monthly employment income of \$782 (dropping cents).

It was not disputed that Claimant's son received \$747 in monthly SSI benefits. Adding Claimant's son's SSI to the countable employment income results in a running income total of \$1529.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (October 2014), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, MDHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. Claimant's group is an SDV group because of Claimant's son's disability.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant testimony conceded that she had no such expenses.

Claimant's FAP benefit group receives a standard deduction of \$154. RFT 255 (October 2014), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the FAP group's countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1375.

MDHHS determined that Claimant's housing expense was \$14/month. Claimant contended that her housing obligation was \$770/month.

It was not disputed that Claimant's landlord charged \$770/month in rent for Claimant's residence. It was also not disputed that Claimant was eligible for subsidized housing. MDHHS policy only allows for FAP budget credits for client housing obligations, not those made by a third party (such as a housing agency). Thus, Claimant is not eligible for a FAP budget credit that exceeds the amount that she actually pays. Claimant testimony indicated that she, not her housing agency, was actually responsible for paying \$770/month. Claimant presented no documents to support her testimony.

MDHHS presented a State Emergency Relief application (Exhibits 9-11) signed and dated by Claimant on [REDACTED]. Claimant's own application stated that her rent was \$14. MDHHS also presented a Rent Adjustment Notification (Exhibit 12) from Claimant's housing agency. The document stated that Claimant's rent was \$14, effective February 2015. Claimant's specialist credibly testified that Claimant submitted the document to MDHHS on [REDACTED]. Based on the presented evidence, it is found that Claimant verified a \$14 monthly housing expense.

DHHS factored the maximum utility credit of \$553 (see RFT 255) in Claimant's FAP budget. Claimant's total shelter expenses are found to be \$567.

DHHS only credits FAP benefit groups with what is called an "excess shelter" expense. This expense is calculated by subtracting half of Claimant's adjusted gross income from Claimant's total shelter obligation. Claimant's excess shelter amount is found to be \$0 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. Claimant's FAP benefit group's net income is found to be \$1375. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$98, the same amount calculated by MDHHS (see Exhibits 1-5).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Services Emergency Relief Manual (ERM).

Claimant also requested a hearing to dispute a SER determination concerning a natural gas bill. MDHHS presented a State Emergency Relief Decision Notice (Exhibits 6-8) dated [REDACTED]. The SER notice stated that Claimant was eligible for \$77.78 in assistance, if Claimant paid \$254 by [REDACTED]. Claimant contended that MDHHS should have paid more, though she had no particular argument why MDHHS should have paid more.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service. ERM 301 (2/2015), p. 5. The required payment amounts are based on the group size and service (heat or electric); see the Table of Monthly Energy Required Payments in this item. *Id.* The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. *Id.*

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. *Id.* Required payments must be met for each month the SER group has an obligation to pay for the service. *Id.* If required energy payments have not been met based on the information entered into Bridges, good cause for non-payment may exist; see ERM 204, Client-Caused Emergencies. *Id.*, p. 7. Failure to make required payments without good cause may result in a shortfall. *Id.*

Claimant conceded that she was a member of four person household for the months of October 2014 through February 2015. Claimant also conceded that she was a member of a three person household for March 2015. MDHHS policy states that 4-person SER groups are expected to pay \$78/month for natural and 3-person groups are expected to pay \$64/month. Thus, Claimant's expected payments in the 6 months before her application total \$454. It was not disputed that Claimant paid \$200 on her gas bill in the six months before applying for SER. Claimant did not have good cause in any of the six months for her short fall because her reported income for each month exceeded good cause amounts. Thus, Claimant's shortfall was \$254.

The client must pay the shortfall amount toward the cost of resolving the emergency. ERM 208 (10/2014), p. 4. It was not disputed that Claimant's SER request was for \$331.78. Based on Claimant's \$254 shortfall, Claimant was eligible for a \$77.78 SER natural gas payment, subject to Claimant's payment of \$254; the same decision was made by MDHHS. It is found that MDHHS properly determined Claimant's SER eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant withdrew her dispute concerning MA eligibility. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Claimant to be eligible for \$98 in FAP benefits, effective June 2015. It is further found that MDHHS properly determined Claimant to be eligible for \$77.78 towards a natural gas bill, subject to a Claimant payment of \$254.

The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

CG / 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:

