

**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.: 15-010901
Issue No.: 2001;3008
Case No.: ██████████
Hearing Date: August 17, 2015
County: Wayne-District 55

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 August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) benefits and calculate the amount of his 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 and his family were ongoing recipients of MA benefits.
2. Claimant was an ongoing recipient of FAP benefits.
3. In connection with a redetermination, Claimant's eligibility to receive FAP benefits was reviewed. (Exhibit D)
4. On June 23, 2015, the Department sent Claimant a Notice of Case Action informing him that for July 1, 2015, ongoing, he was approved for FAP benefits in the amount of \$359 monthly. (Exhibit G)
5. On June 29, 2015, Claimant requested a hearing disputing the Department's actions with respect to his FAP and MA 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).

MA

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.

Claimant requested a hearing disputing the Department's actions with respect to MA benefits for himself, his wife, and his children. Claimant stated that he received notices from the Department that did not include all of his family member's names and eligibility information and was confused regarding whether he and his family had active MA benefits. At the hearing, the Department testified that Claimant, his wife and his four children all had active and ongoing full coverage MA benefits in the months prior to the request for hearing and through July 31, 2015. The Department testified that there was no lapse in MA benefits for Claimant and his family. The Department presented a MA Interface Summary in support of its testimony. (Exhibit A; Exhibit B). A June 20, 2015, Health Care Coverage Determination Notice was also presented showing that Claimant and his wife were eligible for full coverage MA for the period of July 1, 2015, ongoing. (Exhibit C). As such, the Department acted in accordance with Department policy when it processed MA benefits for Claimant and his family.

Claimant stated that one week prior to the hearing date, he was informed by his pharmacist that he and his wife do not have active MA coverage, however, Claimant confirmed that prior to requesting a hearing, he did not receive any notices from the Department informing him that he or his wife were ineligible for MA, and based on the MA eligibility interfaces provided, Claimant has not established that there was any negative action taken on his MA case prior to requesting a hearing.

There was some testimony at the hearing concerning Claimant and his wife's MA benefits for the period of August 1, 2015, ongoing and an ineligibility for MA, however, it was established that the Department did not take this action until after the hearing was requested. The only notice issued to Claimant with respect to his MA prior to the hearing was the June 20, 2015, notice approving Claimant and his wife for MA benefits. Claimant is informed that he was entitled to request a hearing concerning his MA eligibility for August 1, 2015, should he so choose.

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.

Claimant requested a hearing disputing the Department's calculation of his FAP benefits effective July 1, 2015. The FAP EDG Net Income Results Budget was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit H).

The budget shows that Claimant's group had unearned income of \$721, consisting of Claimant's son's monthly SSI benefits, which Claimant did not dispute. Claimant also did not dispute the calculation of his \$227.61 monthly shelter expense (property taxes) and the Department properly applied the \$553 heat and utility standard towards the calculation of Claimant's excess shelter deduction. There was no evidence presented that Claimant's group had any dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for dependent care expenses, child support, or medical expenses. Based on the confirmed six-person group size, the Department properly applied the \$220 standard deduction. RFT 255 (October 2014), p. 1.

The only real dispute at the hearing was the Department's conclusion that Claimant's group had self-employment income in the amount of \$1729. The amount of self-employment before any deductions is called total proceeds. Countable income from self-employment equals (i) the total proceeds of self-employment **minus** (ii) allowable expenses of producing the income, which is the higher of 25 percent of total proceeds or actual expenses if the client chooses to claim and verify the expenses. BEM (January 2015), p. 3.

Self-employment income must be verified at redetermination. BEM 502, p. 6. Self-employment is verified as follows:

Primary source: Income tax return is used provided that (i) the client has not started or ended self-employment, or received an increase/decrease in income, etc., (ii) the tax return is still representative of future income, and (iii) the client filed a tax return.

Secondary source: DHS-431, Self-Employment Statement, with all income receipts to support claimed income.

Third source: DHS-431, Self-Employment Statement, without receipts. When this verification source is used, a Front End Eligibility (FEE) referral is required and the case may not open until the FEE investigation is completed.

BEM 502, p. 7.

In this case, Claimant provided a handwritten list of his income for the months of April 2015 and May 2015 with his redetermination. (Exhibit E). The Department stated that because the handwritten list was unacceptable per policy, it requested that Claimant provide a copy of his 2014 income tax return so that Claimant's income from self-employment could be determined. (Exhibit F). The Department testified that in calculating Claimant's self-employment income, it divided the income from gross receipts or sales of \$27,672 by 12 and determined that Claimant had gross monthly self-employment proceeds of \$2306. The Department contended that because Claimant did not indicate he had any expenses on his redetermination and did not provide verification of his expenses with his redetermination, it determined that Claimant had allowable expenses of 25% of his total proceeds, resulting in monthly countable income from self-employment in the amount of \$1729.

At the hearing, Claimant disputed the Department's calculation of his self-employment income. Claimant stated that he is a cab driver and that he has monthly expenses for cab fees/lease, gas, car washes, etc. Claimant stated that he was never informed or instructed to submit proof of his expenses to the Department and that his expenses are reflected on his tax return. A review of the tax return relied on by the Department establishes that Claimant had reported expenses of \$8960 for rent or lease of vehicles, machinery, and equipment as well as \$3627 in other reported expenses, among other possible expenses.(Exhibit F).

It remained unexplained by the Department why it would consider the information contained in the tax return sufficient for determining total proceeds for self-employment income purposes but insufficient for determining total expenses for self-employment income purposes. The Department also failed to establish that it sent Claimant a verification checklist or a DHS-431, Self-Employment Statement so that he could verify his expenses at redetermination. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's self-employment income, as it did not properly calculate Claimant's actual expenses.

Because of the improperly calculated self-employment income, 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 calculated Claimant's monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to MA and **REVERSED IN PART** with respect to FAP.

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. Recalculate Claimant's FAP benefits for July 1, 2015, ongoing; and
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not for July 1, 2015, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **8/21/2015**

Date Mailed: **8/21/2015**

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;

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:

If submitted by mail, the written request must be addressed as follows:

[illegible]