

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-013000
Issue No.: 3001 5001 2000
Case No.: ██████████
Hearing Date: August 31, 2015
County: Wayne (35)

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 August 31, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████ hearing facilitator.

ISSUES

The first issue is whether MDHHS took any negative action concerning Claimant's Medical Assistance (MA) eligibility.

The second issue is whether MDHHS properly denied Claimant's State Emergency Relief (SER) request for a water bill.

The third 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 and MA recipient.
2. Claimant was a member of a 2-person FAP and MA group, along with Claimant's child.

3. Claimant received [REDACTED]/month in Retirement, Survivors, and Disability Insurance (RSDI).
4. Claimant's child received an additional average [REDACTED]/month from child support.
5. On an unspecified date, Claimant applied for SER seeking assistance of [REDACTED] toward a water bill.
6. On July 10, 2015, MDHHS mailed Claimant a Notice of Case Action informing Claimant of [REDACTED] in FAP benefits, effective August 2015.
7. On July 15, 2015, Claimant requested a hearing to dispute unspecified actions concerning SER, MA, and Adult Medical Program (AMP) benefits.
8. On July 16, 2015, MDHHS mailed Claimant a State Emergency Relief Decision Notice informing Claimant of a denial of SER due to Claimant's required shortfall and copayments exceeding the amount of relief requested.
9. On July 16, 2015, Claimant requested a hearing concerning unspecified actions concerning FAP, MA, and AMP 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant submitted two hearing requests. Each hearing request noted a dispute of MA and AMP benefits. Claimant testified that her and child's MA eligibility were scheduled to end beginning August 2015. Claimant also testified that she received a written notice of MA closure in June 2015. Claimant did not bring written notice of the MA closure to the hearing.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see BAM 600 (June 2015), p. 4):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;

- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

The MDHHS Hearing Summary indicated that Claimant's MA eligibility was scheduled for redetermination based on a benefit period ending July 31, 2015. The Hearing Summary also indicated that the processing of Claimant's redetermination was stalled pending Claimant's return of a bank account statement. This information was consistent with Claimant's hearing request statements referencing a bank account statement. The evidence was indicative that Claimant objected to a potential closure of MA eligibility, though none had yet taken place.

During the hearing, the testifying MDHHS representative was asked to check Claimant's MA history. MDHHS credibly responded that no lapse occurred in Claimant's MA eligibility. Based on the presented evidence, it is found that MDHHS processed Claimant's MA eligibility and Claimant had no lapse in MA coverage. Thus, Claimant failed to establish any adverse action was taken to her MA eligibility. Claimant's hearing request will be dismissed concerning MA eligibility.

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 requested a hearing, in part, to dispute a denial of a SER application. MDHHS presented a State Emergency Relief Decision Notice dated July 16, 2015 (Exhibits 1-2). The stated reason for denial was Claimant's copayment and/or shortfall exceeded the amount to resolve Claimant's emergency.

The SER group has to pay the minimum monthly amounts for water, sewer and/or cooking gas for the last six months. ERM 302 (10/2013), p. 2. The required payment period is always the six-month period prior to the month the SER group applies. *Id.* If required payments of the requested service were not met, [MDHHS is to] determine if good cause for non-payment exists. *Id.* Unmet required payments are also referred to as a shortfall. *Id.*

Claimant's required monthly water payment was [REDACTED] (see ERM 302). It was not disputed that Claimant's income exceeded good cause amounts and that Claimant made no water bill payments in the six months before the month of SER application. Accordingly, MDHHS properly determined that Claimant had a [REDACTED] shortfall payment. The analysis will proceed to determine Claimant's income copayment.

Bridges establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in

the data collection screens. ERM 206 (10/2013), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208 (10/2013), p. 1. This is the income copayment. *Id.*

It was not disputed Claimant's income was at least [REDACTED]. For purposes of SER analysis, [REDACTED] will be accepted as Claimant's income. The income-need standard for Claimant's group size is [REDACTED]. *Id.*, p. 6. Subtracting the income need standard from Claimant's income results in an income copayment of [REDACTED]

Adding Claimant's shortfall and income copayment results in a total copayment of [REDACTED]. Claimant's SER request was for [REDACTED] (Claimant's hearing request noted the amount of need to be [REDACTED]). Whichever amount is correct, Claimant's copayment and shortfall exceeded the amount of her request. Accordingly, MDHHS properly denied Claimant's SER application.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and 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 a reduction of FAP eligibility to [REDACTED]. Claimant testified the reduction began July 2015. MDHHS presented a Notice of Case Action dated July 10, 2015 (Exhibits 5-6). The Notice of Case Action indicated that Claimant's FAP eligibility would be reduced to [REDACTED] effective August 2015. The presented notice was persuasive evidence that Claimant intended to dispute her FAP eligibility beginning August 2015.

The presented Notice of Case Action included a budget summary stating the amounts factored in the FAP determination. During the hearing, all relevant FAP budget amounts were discussed with Claimant. BEM 556 provides the procedure for determining FAP benefits.

MDHHS factored unearned income of [REDACTED]/month. Claimant testimony conceded she received [REDACTED]/month in RSDI. Claimant disputed the additional [REDACTED] in budgeted income.

[To prospect child support income, MDHHS is to] use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (7/2014), p. 4. [MDHHS is to] not include amounts that are unusual and not expected to continue. *Id.*

MDHHS presented a document obtained from a data exchange with child support dated July 16, 2015. The document verified Claimant received [REDACTED] in child support in May 2015 and June 2015. A three-month average of Claimant's child support income is [REDACTED] (rounding down to nearest dollar). Claimant testified she does not always receive child support but presented no documentation to refute that MDHHS improperly budgeted child support income. It is found that Claimant's FAP group's income was [REDACTED].

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.

It is presumed that Claimant's is disabled based on her receipt of RSDI. Thus, Claimant's FAP group is an SDV group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. It was not disputed that Claimant had no day care or child support expenses. Claimant did not disagree with the \$[REDACTED] in medical expenses factored by MDHHS. After subtracting medical expenses, Claimant's running income total is [REDACTED].

Claimant's FAP benefit group receives a standard deduction [REDACTED] 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 countable monthly income to calculate the group's adjusted gross income. Claimant's FAP group's adjusted gross income amount is found to be [REDACTED].

MDHHS factored \$[REDACTED] in monthly housing costs. MDHHS did not present evidence as to how this amount was calculated. In fairness to MDHHS, Claimant did not raise this specific issue in her hearing requests.

Claimant testified her annual property taxes were [REDACTED] (an average of [REDACTED]/month). Claimant testified that she also paid an additional [REDACTED] month towards a property tax arrearage.

Payments that exceed the normal monthly obligation are not deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, and it has not been allowed in a previous FAP budget. BEM 554 (10/2014), p. 3. A literal interpretation of this policy would allow Claimant credit for payment of back taxes if previous FAP budgets did not include property tax credits; it is highly doubtful this was MDHHS' intent. MDHHS likely intended to credit clients for administrative costs (e.g.

interest, late fees...) but not actual payments of back taxes. This interpretation is consistent with other policy stating that expenses are used from the same calendar month as the month for which benefits are being determined (see *Id.*, p. 3).

Claimant presented no evidence that any portion of her property tax payments were for administrative costs. Thus, Claimant is not entitled to credit for any more than the [REDACTED]/month for the current year's property taxes.

Claimant contended that she should receive additional utility credits. MDHHS issued Claimant the h/u utility standard of [REDACTED] which is the maximum allowance for utility obligations (see RFT 255). Claimant is not entitled to more than the maximum utility credit. Claimant's total shelter costs are found to be [REDACTED]

MDHHS 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 [REDACTED] (dropping cents).

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 [REDACTED]. 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 [REDACTED] the same amount calculated by MDHHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS took no adverse action concerning Claimant's 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 denied Claimant's SER application for water. It is further found that MDHHS properly calculated Claimant's FAP eligibility as [REDACTED] effective August 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **9/1/2015**

Date Mailed: **9/2/2015**

GC/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]