

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

IN THE MATTER OF:

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

Reg. No.: 15-013707
Issue No.: 1004 3001
Case No.: ██████████
Hearing Date: September 17, 2015
County: Wayne (55)

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 September 17, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, specialist, and ██████████ hearing facilitator.

ISSUES

The first issue is whether MDHHS violated Claimant's right to apply for cash 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 has not applied for cash assistance benefits.
2. Claimant was an ongoing FAP benefit recipient.
3. Claimant was a member of a 2-person FAP benefit group.
4. Claimant received ██████████ in monthly ██████████).
5. Claimant failed to report medical expenses to MDHHS.

6. On June 2, 2015, MDHHS determined Claimant was eligible to receive [REDACTED] month in FAP benefits, effective May 2015, in part, based on [REDACTED] in unearned income and \$0 medical expenses.
7. On July 27, 2015, Claimant submitted to MDHHS a hearing request disputing the amount of her FAP eligibility.
8. On July 27, 2015, Claimant submitted a second hearing request concerning a dispute of cash assistance for her child.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant requested a hearing, in part, concerning a denial of cash assistance. Claimant's testimony conceded she was never officially denied cash assistance because she never applied for it.

MDHHS policy directly addresses a client's right to apply for benefits. On the same day a person comes to the local office, a person has the right to file an application and get local office help to provide the minimum information for filing. BEM 105 (January 2015), p. 1.

Claimant testified that she was continuously told by her MDHHS specialist that she could not apply for cash assistance and/or that she would not be eligible for cash assistance. Claimant testified that she asked MDHHS staff about cash assistance for her child and was told there was no such program. Claimant contended that she should be credited with applying for cash assistance from January 2015 because she would have applied for cash assistance then had she been given accurate information.

As of the date of the hearing, Claimant had still not yet applied for cash assistance. Claimant also blamed that on MDHHS by claiming that she was told that she would lose her hearing rights if she applied for cash assistance.

Claimant's specialist credibly denied all of Claimant's allegations. Claimant's specialist also credibly testified that she repeatedly encouraged Claimant to apply for cash assistance.

Even if Claimant's testimony was not dubious, MDHHS did not prevent Claimant from applying for cash benefits. It was Claimant's decision, and only her decision, to not apply for FIP or any other cash assistance program. If she got bad advice from MDHHS, Claimant never lost the right to apply for cash assistance programs.

It is found that MDHHS did not prevent Claimant from applying for cash assistance. Accordingly, MDHHS properly did not process Claimant's non-existent cash assistance application.

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 the amount of her FAP eligibility. Claimant testified that she specifically disputed the amount of FAP benefits given to her since May 2015.

MDHHS presented a Notice of Case Action (Exhibits 1-4) dated June 2, 2015. The notice included a budget summary of Claimant's FAP eligibility for May 2015. MDHHS also presented a FAP budget (Exhibit 5). The documents verified the budget factors relied on by MDHHS. BEM 556 directs MDHHS to factor a FAP group's countable income and allowable expenses.

Claimant initially testified that she received [REDACTED]/month in SSI. Claimant's testimony later conceded that she received [REDACTED] month and an additional [REDACTED] state-issued SSI every 3 months ([REDACTED] monthly average). Claimant's monthly income is found to be [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, DHHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant was disabled.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. Claimant's testimony conceded that she paid no day care or dependent care expenses. Claimant testified that she had medical expenses as much as [REDACTED]/month. MDHHS factored [REDACTED] medical expenses for Claimant.

Claimant conceded that she did not report medical expenses to MDHHS. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (April 2015), p. 11. If Claimant did not report medical expenses, MDHHS cannot

consider medical expenses. It is found that MDHHS properly did not factor medical expenses in Claimant's FAP eligibility.

Claimant's FAP benefit group receives a standard deduction of [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. The adjusted gross income amount is found to be [REDACTED].

It was not disputed that Claimant's monthly housing costs were [REDACTED] alleged that MDHHS should have credited Claimant for paying utilities. As it happened, Claimant was issued the h/u utility standard of [REDACTED] which is the maximum allowance for utility obligations (see RFT 255). 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] (rounding up to nearest dollar).

Claimant testified MDHHS should have factored Claimant's [REDACTED]/week expense for taking her child to school. School transportation costs for a child are not an authorized FAP expense and were properly not factored by MDHHS.

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 properly did not process a FIP application that Claimant never submitted. It is further found that MDHHS properly determined Claimant's FAP eligibility to be [REDACTED] effective May 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: **9/18/2015**
Date Mailed: **9/18/2015**
CG/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]