

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

IN THE MATTER OF:



Reg. No.: 2011-52328
Issue No.: 2000, 3015
Case No.: [REDACTED]
Hearing Date: November 28, 2011
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Monday, November 28, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

1. Whether the Department properly terminated the Claimant's Food Assistance ("FAP") benefits effective June 1, 2011?
2. Whether the Department properly determined the Claimant's Medical Assistance ("MA") deductible amount?

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 a FAP recipient.
2. The Claimant is a MA recipient under the deductible program.
3. The Claimant receives monthly Retirement, Survivor, Disability, Insurance ("RSDI") and pension income.
4. In May 2011, the Claimant requested that her two foster children be added to her FAP case.

5. As a result of the foster care payments, the Claimant's FAP benefits were terminated effective June 1, 2011 due to excess income.
6. The Claimant submitted medical bills that were not entered in the Claimant's MA case.
7. On August 23, 2011, the Department received the Claimant's timely written request.

CONCLUSIONS OF LAW

In the record presented, the Claimant requested a hearing regarding the termination of FAP benefits as well as the processing of her MA deductible case. Each program will be addressed separately.

FAP benefits

The Food Assistance Program, formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations. The Department of Human Services, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq.* and Mich Admin Code Rules 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. Foster care payments are considered unearned income for the foster child. BEM 503. A FAP group may choose to include, or exclude, a foster child whose foster parent is a group member. BEM 212. If excluded, the foster child is not eligible for FAP benefits as a separate group and the foster care payments are not income to the group. BEM 212.

In this case, the Claimant requested that her two foster children be added to her FAP group. In doing so, the Department properly included the foster care payments in the FAP budget. As a result, the Claimant's FAP benefits were terminated due to excess income. Although the Claimant testified that had she known the foster care payments were a consideration she would not have added the children to her case, the Department established it acted in accordance with policy when it included the foster care payments in the FAP budget when it determined eligibility. In light of the foregoing, the Department's FAP determination is upheld.

MA deductible

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department

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pursuant to MCL 400.10 *et seq.* and MCL 400.105. Department policies are found in the BAM, BEM, and RFT.

In addition, the law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24. 278(2).

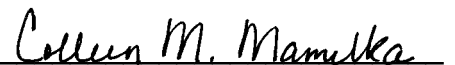
In this case, the Claimant's testified that some of her medical expenses that she tried to submit were not used toward her deductible. During the hearing, the Department agreed to go through the Claimant's MA case to include the deductible amount, to ensure that all allowable medical expenses are properly accounted for. The Claimant was agreeable to this. In light of the accord, there is no other issue that needs to be adjudicated.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department established it acted in accordance with Department policy when it terminated the Claimant's FAP benefits effective June 1, 2011.

Accordingly, it is ORDERED:

1. The Department's termination of FAP benefits is AFFIRMED.
2. The Department shall, as agreed, recalculate the Claimant's MA deductible and notify the Claimant of the determination in accordance with Department policy.
3. The Department shall, as agreed, ensure all allowable medical expenses are properly accounted for based on the submitted medical bills in accordance with Department policy.


Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 2, 2011

Date Mailed: December 2, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or

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reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:

