

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201234616
Issue No.: 2026; 3002
Case No.: [REDACTED]
Hearing Date: April 5, 2012
County: Macomb (12)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 5, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for November 2011 ongoing?

Did the Department properly provide Medical Assistance (MA) coverage for Claimant with a \$742 deductible?

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 is an ongoing recipient of FAP and MA benefits.
2. On December 2, 2011, the Department notified Claimant that she was eligible for Group 2-MA coverage on the basis of her disability with a \$742 deductible.
3. On December 28, 2011, Claimant filed a hearing request, disputing the Department's calculation of her FAP benefits and MA deductible.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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 (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

FAP Benefits

At the hearing, the Department produced a screen printout showing the figures it testified were used to calculate Claimant's FAP budget for January 2012 ongoing. Claimant's monthly income consisted of Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$1212, which Claimant verified. The Department applied the \$146

standard deduction available to Claimant's FAP group size of one and monthly medical expenses of \$65 (expenses incurred by Claimant for her Part B Medicare in excess of her \$35 copay). RFT 255; BEM 554. Claimant verified that her monthly rent was \$400. The Department used this amount and the heat and utility standard deduction of \$55.33 applicable to all FAP recipients. BEM 554; RFT 255. The Department testified that, based on these figures, Claimant was entitled to a monthly FAP allotment of \$25 for January 1, 2012, ongoing. However, a calculation of Claimant's FAP budget based on the foregoing figures shows that Claimant was entitled to \$35 per month for January 1, 2012, ongoing. RFT 260; BEM 556. Thus, the Department did not act in accordance with Department policy when it calculated Claimant's FAP budget for January 1, 2012, ongoing.

Claimant was also concerned about her monthly FAP allotment for November 2011 and December 2011. The Department failed to produce a FAP budget for those months. Thus, it did not satisfy its burden of showing that it acted in accordance with Department policy in calculating Claimant's monthly FAP budget for those months.

At the hearing, Claimant testified that she had additional ongoing medical expenses besides her Part B Medicare premium. The FAP budget for Senior/Disabled/Veteran (S/D/V) members allows for a deduction for medical expenses in excess of \$35. BEM 554. The expense does not have to be paid to be allowed but it cannot be overdue or subject to reimbursement. BEM 554. Allowable FAP medical expenses may include expenses used to meet a Medicaid deductible. BEM 554. Because she is disabled and qualifies as an SDV member, Claimant is eligible for a medical expenses deduction. However, she admitted that she had not presented evidence of her medical expenses prior to the hearing date. Claimant was advised to present verification of her medical expenses to the Department to have them incorporated into future FAP budgets in accordance with BEM 554.

MA Coverage

Claimant was also concerned about the Department's calculation of the MA deductible of \$742. The Department provided MA coverage to Claimant under Group 2 SSI-related MA, which is available to disabled individuals. BEM 150. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 105; BEM 166; BEM 544; RFT 240. An individual whose income is in excess of the applicable monthly protected income level may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly income exceeds the protected income levels. BEM 545.

In this case, the monthly protected income level for Claimant's MA group size of one living in Macomb County is \$408 per month. RFT 200, 240. At the hearing, the Department produced a SSI-Related MA budget to show how the deductible in Claimant's case was calculated. Claimant's gross monthly RSDI income of \$1170 was properly reduced by a \$20 disregard (BEM 541), resulting in a net unearned income of

\$1150. Because \$1150 exceeds the monthly protected income level of \$408 by \$742, Claimant is eligible for MA coverage once she incurs medical expenses in excess of \$742 during the month. Thus, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for MA coverage with a \$742 monthly deductible.

The Department will provide MA coverage to a client each month after the client meets the deductible amount. BEM 545. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month considered. BEM 545. Clients must report expenses by the last day of the third month following the month they want medical coverage. BEM 545; 42 CFR 435.831. Allowable expenses must be reported when they are incurred, whether paid or unpaid. BEM 545. If a group has not met its deductible in at least one of the three calendar months before that month and none of the members are QMB, SLM or ALM eligible, the MA case may close. BEM 545.

At the hearing, Claimant testified that she recently began purchasing Part D Medicare coverage and that she had ongoing medical expenses for prescriptions. Claimant was advised to present verification of these medical expenses to the Department. The Department may then incorporate these expenses into Claimant's MA budget and apply them towards her monthly deductible amount. BEM 541; BEM 544.

Claimant also expressed some concerns about her outstanding, unpaid medical bills. Allowable medical expenses which were incurred in a month prior to the month being considered can be used as old bills, and will be applied towards a client's ongoing deductible, if they meet all of the following criteria: (1) the expense was incurred by a member of the medical group in a month prior to the month being tested; (2) during the month being tested the expense was still unpaid and liability for the expense still exists; (3) a third party resource is not expected to pay the expense; (4) the expense was not previously used to establish MA income eligibility; and (5) the expense was (i) incurred on a date the person had no MA coverage, (ii) not an MA-covered service, or (iii) provided by a non-MA enrolled provider. BEM 545. If an MA client has allowable old bills in excess of the deductible amount, the Department applies these expenses towards the client's deductible for future months in accordance with BEM 545.

At the hearing, Claimant testified that she had not previously submitted these medical expenses to the Department. Claimant was advised to submit her outstanding, unpaid medical expenses to the Department for processing in accordance with BEM 545.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly when it calculated Claimant's MA deductible.

did not act properly when it calculated Claimant's FAP budget for November 2011 ongoing.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to the calculation of Claimant's MA deductible and REVERSED IN PART with respect to the calculation of her FAP budget.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's FAP budget for November 2011, ongoing;
2. Issue supplements for any FAP benefits Claimant was eligible to receive but did not from November 1, 2011, ongoing;
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 10, 2012

Date Mailed: April 10, 2012

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 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.

2012-34616/ACE

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

ACE/cl

cc:

