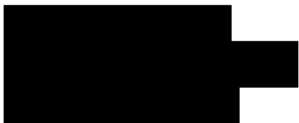


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No: 201258631  
Issue No: 2014, 3002  
Case No: [REDACTED]  
Hearing Date: July 17, 2012  
Genesee County DHS #2

**ADMINISTRATIVE LAW JUDGE:** Christopher S. Saunders

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on July 17, 2012. The claimant appeared and provided testimony. The claimant was represented by her authorized representative, [REDACTED], of [REDACTED].

**ISSUES**

Whether the department properly determined the claimant's Medical Assistance (MA) deductible and whether the department properly reduced the claimant's Food Assistance Program (FAP) benefits due to excess income?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a recipient of FAP and MA benefits at all times pertinent to this hearing.
2. The claimant's budget for both MA and FAP benefits previously had no income attributed to her. (Department Hearing Summary).
3. The department learned that the claimant began receiving RSDI income.
4. The department completed new budgets for the claimant's FAP and MA cases using the RSDI amounts provided to the department by way of an SOLQ report. (Department Exhibits 3-6).
5. On April 18, 2012, the claimant was sent a notice of case action (DHS 1605) stating that her FAP benefits were being decreased as a result of excess

income and that her MA case was being assigned a deductible based on her income. (Department Exhibits 10-17).

6. On June 11, 2012, the claimant filed a hearing request protesting the reduction in her FAP benefits and protesting the amount of her MA deductible.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1)

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

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

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

With respect to MA benefits, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 Medicaid protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medicaid group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Reference Table (RFT). An individual or Medicaid group whose income is in excess of the monthly protected income level is ineligible to receive Medicaid.

However, a Medicaid group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for Medicaid, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The Medicaid group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

In this case, the claimant testified that she does not receive the amount of RSDI benefits that the department has attributed to her. She testified that she contacted the department in May and informed her worker that she does not receive the amount of RSDI that the department had used on the budgets. The claimant further testified that she was not asked to provide verifications and that she was told that there was nothing that could be done. The department worker was not able to recall a specific conversation with the claimant regarding the amount of her RSDI benefits but did testify that the department would not have asked for verification had the claimant disputed the amount of RSDI income as the department uses the amounts provided on SOLQ reports to determine income.

BAM 103 states that the department is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Furthermore, BEM 503 states that available electronic methods are to be used to verify unearned

income; citing an SOLQ as an example. However, BEM 503 also states that when electronic verification is unavailable or inconsistent with a client statement, the client has primary responsibility for obtaining verification.

In this case, the claimant clearly made a contradictory statement regarding the amount of RSDI income attributed to her on both her FAP and MA budgets. Although the department did have information from an SOLQ as to what the claimant's RSDI income was, she should have been given an opportunity to provide verification that would have contradicted the amounts used by the department. The Administrative Law Judge credits the testimony of the claimant in that she attempted to inform her worker that the amount she was receiving from RSDI was not the same as what the department had attributed to her, but was told that there was nothing that could be done. The department should have allowed the claimant an opportunity to present verification that may have contradicted the information that the department had available. Therefore, the Administrative Law Judge determines that the department improperly reduced the claimant's FAP benefits and instituted a spend-down for the claimant's MA benefits because the department did not allow the claimant an opportunity to present verification that would have contradicted the information that the department had available at the time.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in reducing the claimant's FAP benefits and in determining the MA deductible for the claimant's MA case.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's FAP and MA eligibility; allowing the claimant an opportunity to submit any information that she has regarding her RSDI amount. If it is determined that the claimant is eligible for benefits in excess of what she is currently approved for, the department shall issue any past due benefits due and owing that the claimant would be otherwise eligible to receive as of the date of negative action (June 1, 2012).

/s/\_\_\_\_\_

Christopher S. Saunders  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: July 31, 2012

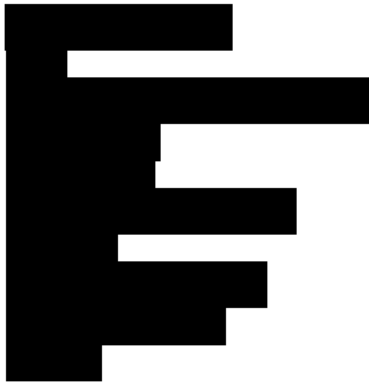
Date Mailed: July 31, 2012

**NOTICE:** Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

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