

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012-17396  
Issue No.: 2019  
Case No.: [REDACTED]  
Hearing Date: March 29, 2012  
County: Wayne (82-82)

**ADMINISTRATIVE LAW JUDGE:** Jonathan W. Owens

**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, an in-person hearing was held on March 29, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

**ISSUE**

Whether the Department properly determined Claimant's community spouse allowance and patient pay 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. On November 3, 2011, the Department determined Claimant's spouse was required to contribute \$961 towards Claimant's care.
2. On November 15, 2011, Claimant's spouse requested a hearing protesting the Department determination.

**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 AACS, 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.

In the instant case, Claimant is disputing the patient pay amount determined by the Department. The Department determined Claimant's spouse's share of household income was \$2,170.21. This left Claimant responsible for \$961 patient pay amount. Claimant's spouse testified the amount of income set aside according to the Department to support her is insufficient. Claimant's spouse submitted a list of expenses including utilities, car payment, car insurance, tax levy, rent, taxes, tickets, Verizon bill and medical expenses. Claimant does not dispute the income amounts used by the Department or the rental costs used.

BAM 600, p. 30, states:

## **Community Spouse Income Allowance**

### **MA Only**

The ALJ may raise the total allowance used to calculate the community spouse income allowance to an amount greater than provided for in BEM 546 to provide such additional income as is necessary due to exceptional circumstances resulting in significant financial duress.

The fact that a community spouse's expenses for goods and services purchased for day-to-day living exceed the total allowance provided by policy does **not** constitute exceptional circumstance. Goods and services purchased for day-to-day living include:

- Clothing.
- Drugs.
- Food.
- Shelter (for example, mortgage, taxes, insurance, rent, maintenance).
- Telephone.
- Trash pick-up.
- Doctor's services.
- Entertainment.
- Heat.
- Utilities.
- Taxes.
- Transportation (for example, car payments, insurance, maintenance, fuel, bus fare).

Employment expenses do **not** constitute exceptional circumstances.

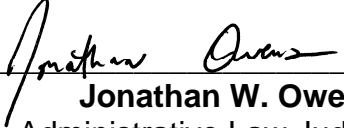
An example of exceptional circumstances is the need for the community spouse to pay for supportive and medical services at home to avoid being institutionalized.

After reviewing the above policy and considering the expenses submitted, this Administrative Law Judge can find no basis to increase the community spouse allowance. The Department properly determined the amount of expenses and income for the Claimant and his spouse.

**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 determining both the patient pay and community spouse allowance.  did not act properly when .

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED  REVERSED for the reasons stated on the record.

  
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**Jonathan W. Owens**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 2, 2012

Date Mailed: April 2, 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.

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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

JWO/pf

cc:

