

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

**IN THE MATTER OF:**



Reg. No.: 2012333  
Issue No.: 2026  
Case No.: [REDACTED]  
Hearing Date: October 27, 2011  
County: Wayne County DHS (49)

**ADMINISTRATIVE LAW JUDGE:** Andrea J. Bradley

**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 October 27, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and her authorized hearing representative (AHR), [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly determine that the Claimant's deductible was not met by the personal care provider services?

**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 is a MA recipient.
2. The Claimant's group size is one.
3. The Claimant receives Retirement, Survivor, Disability, Insurance (RSDI) income in the amount of \$887.00 and pays a Medicare Part B Premium in the amount of \$94.00.
4. The Claimant has personal care costs of \$761.39 per month.

5. On September 16, 2011, the Department notified the Claimant that effective October 1, 201, her medical expense deduction changed and that her Food Assistance Program (FAP) benefits were reduced based on the change in the medical expense deduction.

6. On September 27, 2011, the Department received the Claimant's timely written request for hearing.

### **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.

Additionally, the Department stated that the negative action taken by the Department in this case was that the medical expense deduction amount changed and that the shelter deduction for FAP program benefits changed because the medical expense changed. The Department further testified that in this case it used the protected income limit of \$395 to calculate the medical expense.

After reviewing the applicable Department policy, it is determined that the Department presented insufficient evidence to support the negative action in this case. First, \$395 is not a protected income limit, and the Department failed to set forth the correct protected income limit as set forth in RFT 240. Second, the Department testified that the Claimant was assessed as having need for \$761.39 in personal care services, however, there was insufficient evidence as to what the personal care services covered. Further the Department testified that the Claimant could not use the Adult Foster Care payments as the basis for meeting the Claimant's deductible, however, the testimony was unclear as to whether the Adult Foster Care services were previously or currently covered under the personal care services that the Department pays. Finally, the Department failed to present any testimony with respect to the reduction of the Claimant's FAP benefits. Based on the lack of clear testimony and record evidence as to the basis for the negative action, the Department failed to establish that it acted in accordance with Department policy. Accordingly, the action taken by the Department is REVERSED.

### **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 .  did not act properly when changed the medical expense deduction and reduced the Claimant's FAP benefits.

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

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

1. The Department shall remove the negative action dated October 1, 2011 and begin to reprocess the Claimant's MA and FAP benefits in accordance with Department policy.
2. The Department shall supplement the Claimant for lost benefits she was eligible and otherwise qualified to receive but-for the October 1, 2011 negative action in
3. accordance with Department policy.

  
Andrea J. Bradley  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 1/4/12

Date Mailed: 1/4/12

**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.

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

AJB/hw

cc:

