

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201243394
Issue No.: 2026; 3014
Case No.: [REDACTED]
Hearing Date: April 30, 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 30, 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?

Did the Department properly provide Medical Assistance (MA) coverage for Claimant with a \$177 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 was an ongoing recipient of FAP and MA benefits.
2. On March 15, 2012, the Department sent Claimant a Notice of Case Action informing her that, effective April 1, 2012, she would receive FAP benefits of \$88 per month and MA coverage with a \$177 deductible.
3. On March 22, 2012, 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 AACCS, 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, on March 15, 2012, the Department notified Claimant that, effective April 1, 2012, she was eligible for FAP benefits of \$88 per month and MA coverage with a \$177 monthly deductible. Claimant disputed the Department's calculation of her FAP budget and its finding that her MA coverage was subject to a \$177 monthly deduction.

FAP Benefits

In calculating Claimant's FAP budget, the Department considered Claimant's minor son a part of Claimant's FAP group and included Claimant's son's income in calculating the amount of Claimant's FAP group's unearned income. At the hearing, Claimant confirmed that she had moved into the home where her minor son and mother lived but she contended that her son should not be included in her FAP group because her mother had full legal guardianship of the child. BEM 212 requires that parents and their children under age 22 who live together must be in the same FAP group. Because Claimant lived in the same home with her son, the Department properly included Claimant's son in her FAP group.

The Department produced a FAP budget showing the calculation of Claimant's monthly FAP benefits of \$88, effective April 1, 2012. The Department testified that the total gross unearned income of \$1466 used in the budget consisted of (1) Claimant's monthly gross Retirement, Survivors, and Disability Insurance benefits of \$992 and (2) Claimant's son's monthly gross RSDI benefits of \$474. Generally, the Department counts the gross RSDI benefit amount in calculating a FAP budget. BEM 503; BEM 556. However, at the hearing, Claimant testified that she only received \$912 due to the fact that the Social Security Administration (SSA) was recouping an overpayment to her through \$80 monthly deductions from her RSDI benefits. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income, and the Department excludes these amounts from the calculation of gross income unless (1) the original overpayment amount was excluded income when received, (2) the recoupment is from a cash assistance program, or (3) SSI amounts are recouped due to intentional program violation. BEM 500; BEM 503. The Single On-Line Query (SOLQ), the Department's data exchange with the SSA, showed that Claimant was receiving only \$912 in RSDI benefits, despite the fact that she was not paying for her Part B Medicare premium. Because the Department was on notice that Claimant was not receiving the full amount of her RSDI benefits and no evidence established that any of the exceptions for including the monthly \$80 recouped amount is applicable, the Department did not act in accordance with Department policy when it calculated Claimant's FAP group's unearned income.

At the hearing, Claimant also indicated that she paid \$500 towards rent but that the total monthly rental obligation was \$650. In calculating a FAP budget, the Department considers shelter expenses when the FAP group has a shelter expense or contributes to the shelter expense and does not prorate the shelter expense even if the expense is shared. BEM 554. The Department testified that it only had shelter verification from Claimant in the amount of \$500 but it would consider the \$650 total rental obligation in calculating future FAP benefits if Claimant provided verification of that rental obligation.

MA Deductible

Claimant also requested a hearing with respect to the Department's finding that her MA coverage was subject to a monthly \$177 deductible. As indicated above, the Department should not have included the \$80 the SSA deducted from Claimant's monthly RSDI when it calculated Claimant's gross income. Because the Department

used the incorrect gross income figure in Claimant's MA budget, the Department did not act in accordance with Department policy when it calculated whether Claimant's MA case was subject to a deductible and the amount of such a deductible.

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 it calculated Claimant's FAP and MA budgets.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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

1. Recalculate Claimant's FAP and MA budgets for April 1, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision to reflect Claimant's gross monthly RSDI benefits of \$912; and
2. Issue supplements to Claimant for any FAP and/or MA benefits Claimant was eligible to receive but did not for April 1, 2012, ongoing; and
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: May 3, 2012

Date Mailed: May 3, 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.

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:

