

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

IN THE MATTER OF:



Reg. No.: 201246625
Issue No.: 2026; 3014
Case No.: [REDACTED]
Hearing Date: May 16, 2012
County: Wayne (35)

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 May 16, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly provide Medical Assistance (MA) coverage for Claimant with a \$378 deductible?

Did the Department properly provide Claimant with Food Assistance Program (FAP) benefits?

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 an unverified date, the Department notified Claimant that she was eligible for Group 2-MA coverage with a \$378 deductible effective May 1, 2012.
3. On April 9, 2012, Claimant filed a hearing request, disputing the Department's actions concerning 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 1999 AC, R 400.3101 through Rule 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 1999 AC, R 400.3001 through Rule 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 Rule 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 1999 AC, R 400.5001 through Rule 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et seq.*, and Mich Admin Code R 400.3603.

MA Deductible

The Department testified that, effective May 1, 2012, Claimant's MA deductible increased from \$35 per month to \$378 per month. 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 level, which for Claimant, a single member MA group living in Wayne County, is \$375. BEM 105; BEM 166; BEM 544; RFT 200; 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.

Claimant contends that the Department improperly calculated her income when it prepared her MA budget. At the hearing, the Department provided an MA budget showing a total net income of \$753. The Department testified that, in calculating Claimant's income, it excluded her income from her work study program and included her income from babysitting and from her employment at CVS. The Department properly excluded the work program income. BEM 501. However, Claimant credibly testified that she sent the Department a change report on March 28, 2012, advising the Department that she was no longer working as a babysitter and had started working for CVS. The Department testified that it did not receive the change report but believed that Claimant had sent it. Because the Department improperly included Claimant's babysitting income in calculating her total income, the Department did not act in accordance with Department policy when it prepared her MA budget.

Claimant was also concerned about the Department's calculation of her CVS income. The Department testified that, in processing Claimant's CVS income, it used information from the Work Number, the Department-accessible database where employers voluntarily report employment information, and relied on payments made to Claimant on March 23, 2012, for 41.2 hours of employment and on April 6, 2012, for 27.6 hours of employment. Claimant credibly testified that she worked 41.2 hours during the first pay period because she was training but worked only 19 hours weekly on her regular schedule.

For a deductible client, the Department must prepare a future month budget when a change occurs that may affect deductible status. BEM 530. In the processing month, the Department should use amounts already received by the client. BEM 530. However, for future months, the Department must prospect income that will be, or is likely to be, received in the future month. BEM 530. If a person reports a decrease in the number of hours worked, the Department must use the new amount even if not reflected on any pay stubs. BEM 530. For fluctuating income, the Department prospects future income by using the expected hourly wage and hours to be worked, as well as the payday schedule, to estimate earnings. BEM 530.

In this case, the Department acknowledged that it did not contact Claimant to discuss her work hours when it relied on the information on the Work Number in calculating Claimant's CVS income. However, the information used showed a significant range in

the number of hours Claimant worked. The Department should consider speaking with a client in order to establish the best estimate of future income. BEM 530. Because Claimant's work hours at CVS were to significantly decrease after she completed her training, the Department was required to prepare a new MA budget and calculate the deductible based on this new income information. By failing to do so, the Department did not act in accordance with Department policy.

FAP Benefit

Claimant's hearing request also referenced her FAP benefits. At the hearing, the Department testified that Claimant received benefits under her mother's case, case number 102914438. While it was initially suggested that Claimant may not have authority to request a hearing with respect to the FAP benefits, a review of policy shows that Claimant, as an eligible adult member of her mother's FAP group, did in fact have authority to file a hearing request concerning the FAP benefits. BAM 600. Therefore, her FAP concerns are addressed in this Decision.

At the hearing, although Claimant was concerned that she was not included as a member of her mother's FAP group, the Department introduced an eligibility summary showing that Claimant's mother's FAP group consisted of two members for the last several months (other than in April 2012) and credibly testified that Claimant was included as a FAP group member with her mother because she was an eligible student. While students enrolled half-time or more in college are ineligible for FAP benefits unless they meet one of the criteria in BEM 245, evidence at the hearing established that Claimant was participating in a state or federally-funded work study program during the regular school year and that she was employed and paid for more than 20 hours of employment. Thus, Claimant met two of the eligibility criteria under BEM 245. However, the Department testified that Claimant's sister [REDACTED] who also lived with Claimant and their mother, was excluded from the FAP group as an ineligible student. No evidence was presented to counter the Department's finding that [REDACTED] was an ineligible student for FAP eligibility.

The Department did not provide a FAP budget showing how the group's FAP benefits were calculated. Thus, the Department did not satisfy its burden to show that it acted in accordance with Department policy when it calculated Claimant's group's FAP budget for May 2012 ongoing. Furthermore, the Department presumably counted Claimant's babysitting income and used the information from the Work Number to calculate Claimant's CVS employment income in the same manner as discussed above in the MA discussion. For the reasons stated above, the calculation of Claimant's income must exclude Claimant's babysitting income, which Claimant reported to the Department on March 28, 2012 that she stopped receiving.

The Department must also recalculate Claimant's income from CVS to more accurately reflect her prospective income. When prospecting income for FAP purposes, the Department must use the best estimate of income expected to be received during the month and should seek input from the client to establish an estimate whenever possible. BEM 505. In this case, the information from the Work Number showed a significant

range in hours worked for the two pay periods provided. In light of this fluctuation, the best estimate of income expected to be received in the future was not necessarily consistent with what Claimant had received in the past. The Department acknowledged that it did not contact Claimant to discuss her work hours when it relied on the information on the Work Number in calculating Claimant's CVS income. Because the Department's calculation of Claimant's CVS income was not an accurate estimate of future income, the Department did not act in accordance with Department policy in calculating her CVS income in preparing her FAP budget.

The Department's evidence also indicated that Claimant was excluded as a FAP group member in April 2012, but the Department was unable to explain why Claimant was ineligible. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating the FAP group size and benefits for April 2012.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department did not properly calculate Claimant's MA deductible for May 1, 2012, ongoing, and FAP benefits for April 1, 2012, ongoing.

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. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC DSS 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. Begin recalculating Claimant's FAP group's budget for April 1, 2012, ongoing, and MA deductible for May 1, 2012, ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Provide Claimant with MA coverage she is eligible to receive from May 1, 2012, ongoing;
3. Issue supplements to Claimant's FAP group for any FAP benefits the group was eligible to receive from April 1, 2012, ongoing but did not;

4. 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 22, 2012

Date Mailed: May 22, 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

