

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201313660  
Issue No.: 2026, 3002, 5018, 5025  
Case No.: [REDACTED]  
Hearing Date: January 10, 2013  
County: Macomb

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**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 January 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

**ISSUE**

Did the Department properly determine that the Claimant is eligible for Medical Assistance (MA) with a patient deductible?

Did the Department properly determine the Claimant's eligibility for the Food Assistance Program (FAP)?

Did the Department properly determine that the Claimant is not eligible for State Emergency Relief (SER)?

**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 submitted an application for Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) benefits on November 15, 2012.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].

3. On November 19, 2012, the Department approved the Claimant for Medical Assistance (MA) with a patient deductible for \$ [REDACTED]
4. On November 19, 2012, the Department denied the Claimant's application for Food Assistance Program (FAP) due to excess income.
5. On November 19, 2012, the Department denied the Claimant's application for State Emergency Relief (SER) benefits because her house was not subject to a tax sale or mortgage foreclosure at the time of her application.

### **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.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

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). BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- There is no excess income, or
- Allowable medical expenses equal or exceed the excess income. BEM 545.

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 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance 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 Program Reference Table (RFT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA 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 MA, 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 MA 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.

A review of claimant's case reveals that the Department budgeted correct amount of income received by the Claimant. Claimant's "protected income level" is \$ [REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department's determination that the Claimant has a \$ [REDACTED] deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

The Claimant did not dispute that she receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. The Claimant's patient deductible is determined solely from this income figure and her monthly expenses have no bearing on this eligibility determination.

The Department has established that it properly determined that the Claimant's Medical Assistance (MA) deductible.

On November 19, 2012, the Department determined that the Claimant is not eligible for Food Assistance Program (FAP) benefits due to excess income. The Department's representative testified that eligibility was initially determined based on a group of two, and that the Claimant was later approved for Food Assistance Program (FAP) benefits as a group of one.

While the Department's representative made a good effort to reconstruct the updated Food Assistance Program (FAP) budget through her testimony alone, this Administrative Law Judge finds that the Department failed to provide sufficient evidence to establish that the Department properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

On November 19, 2012, the Department denied the Claimant's application for State Emergency Relief (SER) benefits because her house was not subject to a tax sale or mortgage foreclosure at the time of her application.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. Applicant's for assistance with home ownership must provide verification of the need for benefits that may consist of:

- Court order or a written statement from the contract holder or mortgagee that there is a payment arrearage and failure to correct the deficiency may result in foreclosure or forfeiture proceedings.
- A court summons, order or judgment that will result in the SER group becoming homeless.
- Statement from taxing authority verifying total tax arrearage, and
- Notice scheduling a judicial foreclosure hearing.

No evidence was available during the hearing that the Claimant's home was subject to foreclosure at the time of her application for benefits. Therefore, the Department properly denied the State Emergency Relief (SER) application.

**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 it determined the Claimant's Medical Assistance (MA) patient deductible and denied his application for State Emergency Relief (SER) benefits.

Accordingly, the Department's  MA and  SER decisions are  **AFFIRMED** for the reasons stated on the record.

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 not act properly when it determined the Claimant's eligibility for the Food Assistance Program (FAP).

Accordingly, the Department's  FAP is  **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. Allow the Claimant a ten-day period to clarify her monthly shelter and medical expenses.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of November 15, 2012.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/  
Kevin Scully  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: January 15, 2013

Date Mailed: January 15, 2013

**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

KS/tb

cc:

