

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013 14216

Issue No.: 2026, 3019

Case No.: [REDACTED]

Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on February 6, 2013. The Claimant appeared and testified. His spouse Rachael Taylor also appeared as a witness on his behalf. [REDACTED], ES and [REDACTED] Assistance Payments Supervisor appeared on behalf of the Department.

ISSUE

Whether the Department properly reduced the Claimant's FAP benefits for December 2012 and correctly increase FAP benefits January 2012?
Whether the Department properly determined the Claimant's Medical Assistance ("MA") deductible 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. Pursuant to a redetermination in October 2012, the Department received pay stubs from the Claimant which it used to calculate FAP benefits for December 2012. The pay stubs submitted increased the group earned income amount. The Claimant's FAP benefits were reduced to \$28 for December 2012.

2. The Claimant provided the Department additional pay stubs on November 30, 2012 which demonstrated that the Claimant's earnings had decreased due to reduced overtime and the Department recalculated benefits for January 2012 in the amount of \$154. The Claimant at the hearing thought the increase should have been effective in December 2012. The Claimant did not question the amount of FAP benefits.
3. Claimant was an MA recipient receiving Transitional Medicaid under the low income family program. The transitional Medicaid ended in December 2012. The Claimant receives medical assistance subject to a spend down amount of \$1161 per month. Exhibit 1 and 2.
4. As a result of the Claimant's Transitional Medical Assistance ending December 2012 and due to Claimant's receiving earned income, the Department determined that the Claimant was ineligible for ongoing Medical Assistance due to excess income, and placed the Claimant on a spend down.
5. On November 15, 2012 the department issued a Notice of Case Action determining the Claimant was subject to a MA deductible of \$1161 effective January 1, 2013. Exhibit 1
6. The Claimant has two dependent Children and his spouse living with him. There are three dependents in the Claimant's group, his wife and minor children.
7. A budget analyzing the Claimant's eligibility for MA was completed, which determined Claimant's deductible to be \$1161 per month effective January 1, 2013. Exhibit 2
8. The Department used a protected income level of \$500 for the group of 2 living in Wayne County. RFT 240.
9. On November 21, 2012, Claimant requested a hearing contesting the December 2012 FAP benefit allotment reduction and the Department's determination terminating his ongoing Medical Assistance and imposing a deductible.

CONCLUSIONS OF LAW

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, Rule 400.3001 through Rule 400.3015.

In this case the Claimant's FAP benefits were reduced after reporting pursuant to a redetermination increased income. The Department as it is required to do, used the new income based upon pay stubs provided by the Claimant to determine FAP benefits and determined that the benefits were to be reduced and provided notice to the Claimant of the reduction. On November 30, 2012 the Claimant provided new pay stubs for November 2012 which when computed demonstrated a reduction in income and accordingly the Department increased the FAP benefits for January 1, 2013. Department policy provides that when processing an increase in FAP benefits that the Department must act on a change within 10 days and for changes that result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date. Bridges Administrative Manual (BAM) 220 pp. 5, (11/1/12). In this case the Department correctly made the FAP benefits based on the November 30 reported change effective January 2013. Because the 10 day period falls in the next benefit period the Department correctly made the increase effective in January 2013.

The Medical Assistance ("MA") program is established by 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, formally known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq* and MCL 400.105. Department policies are found in the Bridges administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Program Reference Manual ("PRM").

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. BEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. BEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. For Group 2, eligibility is possible even when net income exceeds the income limit which is the case in the instant matter. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PPI) must be determined. The PPI 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. If the fiscal group has net income that is the same or less than the PPI, RFT 240, then it will qualify for MA. If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program. A deductible is a process which allows a client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred.

In this case the Claimant and his spouse live in Wayne County and thus the protected income level for a group of 2 is \$500. Thus based upon the budget presented the Department used the correct protected income level.

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 to continue. BEM 545.

The November 15, 2012 Notice of Case Action which informed Claimant that he was entitled to MA coverage with a deductible of \$1161 actually had another deductible amount which was changed and corrected. Exhibit 1 pp1-10.. To receive MA under a Group 2 SSI-related MA category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (based on shelter area and fiscal group size). BEM 105; BEM 166; BEM 544; RFT 240. While individuals eligible for Group 2 MA have income equal to, or less than, the protected income level, an individual whose income is in excess of the monthly protected income level may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the protected income levels. BEM 545.

At the hearing, the Department provided the MA group 2 budget admitted as an exhibit during the hearing, after the hearing. During the hearing the budget was not explained as the actual calculations were done by the bridges system. The formula for calculating the deductible is a multi step formula and was not reviewed. Unfortunately the undersigned, based on the information available cannot determine if the budget and deductible were correct because the countable income for Medical Assistance used by the Department was not provided. To determine that amount without knowing what pay stubs were used, and what month was used, the determination as to whether the deductible is

correct cannot be made. The purpose of the hearing is to determine whether based upon the evidence presented the Department correctly calculated the deductible.

The entire formula is set forth in BEM 536 BEM 530 and BEM 541. Therefore, the undersigned finds that the Department did not meet its burden of proof and did not demonstrate that it correctly calculated the deductible amount and that it did so in accordance with department policy.

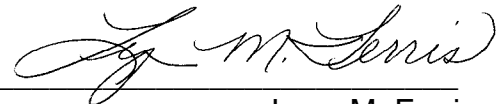
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it determined that the Claimant's FAP increase was effective January 2013, and its action is therefore AFFIRMED.

The Administrative Law Judge based upon the above findings of fact and conclusions of law, finds the Department did not demonstrate that it correctly calculated the medical assistance deductible and, therefore, its action is REVERSED.

Accordingly, it is Ordered:

1. The Department's shall recalculate the Claimant's Medical Group 2 deductible amount.
2. The Department shall identify and advise the Claimant of the countable income amount used to calculate the medical deductible amount.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 15, 2013

Date Mailed: February 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 to:
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/tm

cc:

