

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

IN THE MATTER OF:



Reg. No.: 201315306
Issue No.: 2013; 2026; 3002
Case No.: [REDACTED]
Hearing Date: January 14, 2013
County: Wayne (43)

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 January 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]asley, a family member. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly provide Claimant with Medical Assistance (MA) coverage with a monthly deductible of \$688?

Did the Department properly process bills for medical expenses Claimant submitted with her MA application?

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 had received MA coverage in the past.
2. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
3. On September 25, 2012, Claimant reapplied for MA benefits and included old medical bills with her application.

4. On December 4, 2012, the Department approved Claimant's application, providing Claimant with MA coverage as of September 1, 2012.
5. For November 2012, ongoing, Claimant's MA coverage was subject to a monthly \$688 deductible.
6. On December 4, 2012, Claimant filed a hearing request, disputing the Department's actions concerning her MA case and her FAP benefits.

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, at the hearing, Claimant indicated that she had requested a hearing concerning her MA and FAP cases. Claimant explained that she was concerned about a reduction in her FAP benefits. The Department credibly testified that the Notice of Case Action informing Claimant that her FAP benefits were decreasing effective January 1, 2013, was sent to Claimant on December 5, 2012. Because Claimant filed her request for hearing on December 4, 2012, before she was notified of the reduction in her FAP benefits, the issue of the reduced FAP benefits is not properly a consideration in the current hearing. Claimant was advised that she should file another hearing request identifying her reduced FAP benefits as the disputed issue if she wished to have this issue addressed in a hearing, in order to give the Department the opportunity to prepare for the hearing. The hearing proceeded with respect to issues raised by Claimant concerning her MA case: (i) the Department's calculation of her monthly deductible; (ii) the Department's processing of old bills she had provided to the Department with her application; and (iii) the Department's failure to provide MA coverage between May 1, 2011 and August 31, 2012.

Calculation of Deductible

The Department testified that Claimant was eligible for SSI-related MA with a monthly deductible of \$688. 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 (October 1, 2010), p 1. Claimant is eligible for Group 2 full MA coverage if her monthly net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is \$375 for Claimant. BEM 105, p 1; BEM 166 (October 1, 2010), pp 1-2; BEM 544 (August 1, 2008), p 1; RFT 240 (July 1, 2007), p 1; RFT 200 (July 1, 2007), p 1. If Claimant's monthly net income is in excess of \$375, the applicable PIL in this case, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds the \$375 PIL. BEM 545 (July 1, 2011), p 1.

At the hearing, the Department produced a SSI-Related MA budget showing how the deductible in Claimant's case was calculated. Claimant verified that she received gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$1083. The Department properly subtracted the \$20 disregard to establish Claimant's total net income for MA purposes at \$1063. BEM 530 (October 1, 2012), p 1; BEM 541 (January 1, 2011), p 1. Based on Claimant's testimony at the hearing, there were no additional deductions available to Claimant or other expenses she incurred that qualified as need items under policy. See BEM 541; BEM 544. Claimant's net income of \$1063 for MA purposes exceeds the monthly protected income level of \$375 by \$688. Thus, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for MA coverage with a monthly deductible of \$688.

Processing of Old Bills

Claimant testified that she submitted old bills with her application that remained unpaid. The Department verified that Claimant submitted bills with dates of service between January 2011 and May 2012. When a client's old bills equal or exceed the group's deductible amount for the month tested based on old bills, income eligibility exists for the entire month. BEM 545, p 1. Old bills must be processed in accordance with BEM 545, pp 2-3, 7-8, 15-16. Clients must be given the most advantageous use of their old bills and may request coverage for up to six future months based on these bills. BEM 545, p 2. The Department testified that it did not process the old bills Claimant submitted with her application to determine whether she had established income eligibility for MA coverage for any of the months after September 1, 2012. The Department did not act in accordance with Department policy when it failed to do so.

Lapsed Coverage Between May 1, 2011 and August 31, 2012

At the hearing, Claimant also expressed concerns because she was not aware that she did not have coverage for over a year prior to her September 2012 application. Claimant contended that she submitted bills concerning her medical expenses and, while these bills were never paid, Claimant's worker led her to believe that she continued to have MA coverage. A client who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance is entitled to a hearing, but the request for hearing must be raised within 90 days of the Department's action. Mich Admin Code R 400.903(1); BAM 600 (October 1, 2012), p 4. Although Claimant contends that she was not aware that her case had closed and, to the contrary, she was led to believe by her worker that her case remained open, because Claimant's request for hearing was filed well after 90 days from the date her MA case was first closed in May 2011, this issue was not timely raised.

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 calculated Claimant's MA deductible.

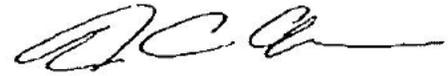
did not act properly when it failed to process the bills Claimant submitted with her MA application.

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. Begin processing the bills Claimant submitted with her September 25, 2012, MA application in accordance with Department policy; and

2. Notify Claimant in writing of the Department's decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 18, 2013

Date Mailed: January 18, 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

ACE/hw

cc:

