

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-34587
Issue Nos.: 2026, 3003
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 10, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for March 1, 2013, ongoing?
2. Did the Department properly calculate Claimant's Medical Assistance (MA) deductible effective March 1, 2013, ongoing?
3. Did the Department properly process medical bills towards Claimant's MA 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. In February 2013, Claimant submitted a completed redetermination.

3. On March 7, 2013, the Department sent Claimant a Notice of Case Action notifying her of a decrease in her FAP benefits to \$71 effective March 1, 2013, ongoing. The Notice also indicated that Claimant met her deductible for March 2013; however, the Notice indicated that Claimant would receive MA coverage with a \$554 monthly deductible effective April 1, 2013, ongoing.
4. On March 7, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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 Mich Admin Code, 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.

FAP Benefits and Medical Expenses

The Department recalculated Claimant's FAP budget based on Claimant's submitted redetermination received in February 2013. At the hearing, the FAP Budget Summary from the March 7, 2013, Notice of Case Action was reviewed. (Exhibit 1) Claimant's AHR verified the amounts used by the Department to determine her unearned income. The Department properly calculated Claimant's unearned income to be \$982. See BEM 503 (November 2012) pp. 1-33. Claimant's AHR also confirmed that her FAP group size was one. A review of the FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's group size and the \$575.00 standard heat and utility deduction available to all FAP recipients. RFT 255 (October 2012), p. 1; BEM 554 (October 2012), pp. 11-12.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554 (October 2012), p. 10. Claimant's AHR testified that the shelter expenses should have been \$267 rather than the \$247 as indicated in Exhibit 1. The Department agreed that the shelter expenses should have been \$267 for March 2013. Thus, the Department will have to recalculate Claimant's March 2013 FAP budget to include the \$267 for shelter expenses rather than the \$247 as indicated in Exhibit 1.

Moreover, Claimant is protesting the reduction of her FAP benefits because the Department excluded her medical expenses.

Because Claimant is a Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a deduction for verified medical expenses she incurred in excess of \$35. BEM 554 (October 1, 2012), p. 1. Claimant's March 2013 FAP budget showed zero in medical expenses deductions.

At the hearing, Claimant's AHR contended that the Department excluded medical expenses she had documented in her February 2013 redetermination. The Department received nine submitted medical expenses in the February 2013 redetermination. As a side note, Claimant's AHR testified that they agreed to the following nine medical expenses which were submitted in the February 2013 redetermination: (1) \$155.31 medical bill for services incurred [REDACTED], and with an invoice date of April 18, 2012; (2) \$39.16 medical bill with an invoice date of October 4, 2011, and statement date of October 2, 2012; (3) \$155.31 medical collection bill with a statement date of January 22, 2013 (duplicate amount to #1 above); (4) \$213.74 medical collection bill with services incurred on [REDACTED], and with a statement date of November 9, 2012; (5) \$250.56 medical bill for services incurred on [REDACTED], and with a statement date of May 5, 2012; (6) \$45.46 medical bill for services incurred on [REDACTED]

██████████, and with a statement date of May 5, 2012; (7) \$65.49 medical bill for services incurred on ██████████ and with a statement date of May 5, 2012; (8) \$155.31 medical bill for services incurred on ██████████, and with an invoice date of April 18, 2012 (duplicate amount to #1 above); and (9) \$1,131.20 medical bill for services incurred on ██████████.

To be countable in the FAP budget, a medical bill cannot be overdue, which means that the bill is currently incurred (for example, in the same month or ongoing) or currently billed (the client received the bill for the first time for a medical expense provided earlier and the bill is not overdue). BEM 554, p. 9. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3.

In this case, all of the medical expenses at issue were all incurred and billed in either 2011 or 2012 but not reported or verified until the February 2013 redetermination. Claimant reported these bills too late and should have done so when they were currently billed and/or incurred. Because the bills were not currently incurred or currently billed, the Department acted in accordance with Department policy when it did not consider those expenses in the calculation of Claimant's medical expense deduction. BEM 554, pp. 7-9. Additionally, a few of the submitted medical expenses were collection statements. Therefore, these medical expenses were overdue and cannot be otherwise considered as medical expense deductions. BEM 554, pp. 7-9.

MA Deductible

On March 7, 2013, the Notice of Case Action indicated that Claimant met her deductible for March 2013; however, the Notice indicated that Claimant would receive MA coverage with a \$554 monthly deductible effective April 1, 2013, ongoing. Claimant's AHR was only concerned with the \$554 monthly ongoing deductible for April 1, 2013, ongoing.

It was not disputed that Claimant was a disabled and/or an aged individual. As a disabled person, Claimant received Group 2 Spend-Down (G2S). G2S is an SSI-related category. BEM 166 outlines the proper procedures for determining G2S eligibility. 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 (PIL), which is based on shelter area and fiscal group size. BEM 105 (October 1, 2010), p. 1; BEM 166 (October 1, 2010), pp. 1-2; BEM 544 (August 1, 2008), p. 1; RFT 240 (July 1, 2007), p. 1. The monthly PIL for an MA group of one (Claimant) living in Oakland County is \$408 per month. RFT 200 (July 1, 2007), p. 1; RFT 240, p. 1. An individual whose monthly income is in excess of \$408 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 PIL. BEM 545 (July 1, 2011), p. 1.

In this case, it was not disputed that Claimant's gross unearned income was \$982 per month. The Department properly subtracted the \$20 disregard to establish Claimant's

total net income for MA purposes at \$962. BEM 530 (August 1, 2008), p. 1; BEM 541 (January 1, 2011), p. 1. Claimant's net income of \$962 for MA purposes exceeds the monthly protected income level of \$408 by \$554. Thus, the Department properly determined that Claimant would receive MA coverage once she incurs medical expenses in excess of \$554 during the month.

Claimant's AHR contended that the old medical bills should have been applied towards the deductible. 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, p. 9; 42 CFR 435.831.

Additionally, a group with excess income can delay deductible for one or more future months based on allowable old bills. BEM 545, p. 7. BEM 545 states how to determine the number of months to delay a deductible. BEM 545, p. 9. BEM 545 states as follows: (1) Do the total old bills equal or exceed the group's excess income?; (2) Divide the total old bills by the group's excess income. Drop any fractions. The result equals the number of months the group may delay deductible; if the result is more than one month, (3) Authorize MA for the additional months, but not more than a total of six future months.

The following bills out of the nine submitted at time of redetermination could be considered as old bills: (1) \$155.31 medical bill for services incurred on [REDACTED]; (2) \$213.74 medical collection bill with services incurred on [REDACTED]; (3) \$250.56 medical bill for services incurred on [REDACTED]; (4) \$45.46 medical bill for services incurred on [REDACTED]; (5) \$65.49 medical bill for services incurred on [REDACTED] and (6) \$1,131.20 medical bill for services incurred on [REDACTED]. The grand total for these medical bill is \$1,861.76. The total old bill amount of \$1,861.76 exceeds the group's excess income of \$554 as required with step 1. BEM 545, p. 9. Dividing \$1,861 (drop any fractions) by \$554 equals 3 months the deductible was met. BEM 545, p. 9. The Department determined Claimant met her deductible for only March 2013.

The analysis above only allows six of the nine medical bills to be considered as possible old medical bills. The medical bill in the amount of \$39.16 was invalid due to no servicing date present and the other two medical bills in the amount of \$155.31 were duplicates.

The Department testified that the March 2013 deductible was met by a portion of the old bills, but did not indicate which bills were factored. Nevertheless, it appears that the Department did not properly apply the rule that medical bills submitted at redetermination can be applied towards the deductible for future months. The conclusion is uncertain because it was not established if the bills were applied to deductibles in previous months.

Additionally, at the hearing, Claimant's AHR indicated that Claimant had additional medical bills to submit. Claimant's AHR testified that he did not submit these medical bills at the February 2013 redetermination nor at any other time until today's hearing. Claimant was advised to submit any outstanding, unpaid medical expenses to the Department for processing in accordance with BEM 545.

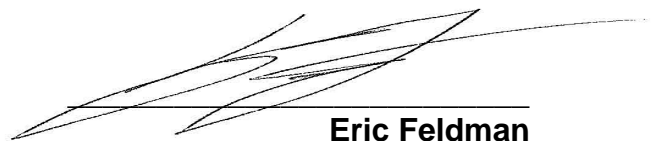
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department improperly calculated Claimant's March 2013 FAP budget and also the Department did not properly evaluate whether the medical bills submitted at redetermination can be applied towards Claimant's deductible for future months.

Accordingly, the Department's MA and FAP decision is REVERSED.

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 March 2013 FAP budget to include \$267 in shelter expenses rather than \$247;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from March 1, 2013, ongoing;
3. Re-evaluate the six of the nine allowable old medical bills (\$1,861 grand total) as stated above to see if they can be applied towards the deductible for future months in accordance with Department policy; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 15, 2013

Date Mailed: April 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

EJF/pf

cc:

