

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

**IN THE MATTER OF:**



Reg. No.: 20134167  
Issue No.: 2026; 3015  
Case No.: [REDACTED]  
Hearing Date: December 19, 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 December 19, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly provide Claimant and her husband with MA coverage with a monthly \$478 deductible?

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

**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 MA and FAP benefits.
2. On September 11, 2012, the Department notified Claimant that, based on excess income, effective October 1, 2012, MA coverage for her and her husband would be subject to \$478 monthly deductibles for each of them and her FAP would close.
3. On October 8, 2012, Claimant filed a hearing request disputing the Department's action.

### 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.

Additionally, the Department notified Claimant in a September 11, 2012 Notice of Case Action that, because of her group's excess income, effective October 1, 2012, she and

her husband's MA coverage would be subject to \$478 deductibles for each of them and her FAP case would close.

#### MA Deductible

The Department determined that Claimant and her husband were eligible for MA coverage with monthly \$478 deductibles for each. Clients are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 135 (January 1, 2011), p 2; BEM 544 (August 1, 2008), p 1; RFT 240 (July 1, 2007), p 1. In this case, the monthly PIL for an MA group of two (Claimant and her husband) living in Wayne County is \$500 per month. RFT 200 (July 1, 2007), p 1; RFT 240, p 1.

An individual whose income is in excess of the applicable monthly PIL 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 applicable PIL. BEM 545 (July 1, 2011), p 2. Thus, if Claimant's net monthly income exceeds \$500, she is eligible for MA coverage with a monthly deductible equal to the amount that her monthly net income exceeds \$500.

The Department did not provide an MA budget showing the calculation of the deductible for Claimant and her husband. Thus, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that Claimant and her husband's MA coverage was subject to a \$478 monthly deductible for each of them.

#### FAP Benefits

The September 11, 2012 Notice of Case Action closing Claimant's case indicated two reasons for the FAP case closure: (1) Claimant had failed to participate in employment-related activities, quit a job, was fired or reduced hours of employment without good cause and (2) Claimant's FAP group's net income exceeded the net income limit. At the hearing, the Department acknowledged that it was not aware of Claimant failing to participate in employment-related activities, quitting a job, being fired or reducing hours without good cause, and that the first reason for the FAP case closure was erroneous. Therefore, there was no evidence that any of the members of Claimant's FAP group were disqualified from the group. See BEM 230B (December 1, 2011). As such, the Department should have calculated Claimant's FAP budget for a group size of four consisting of Claimant, her husband and their two children.

While the Department did not provide a FAP budget for review at the hearing, the monthly income and expenses indicated on the Notice of Case Action were reviewed for purposes of determining whether Claimant's net income exceeded the net income limit for her group size of four. Effective October 1, 2012, the net income limit for a group size of four is \$1921. RFT 250 (October 1, 2012), p 1. However, the Notice of Case Action indicates that the Department applied a net income limit of \$1591, the limit applicable to a group size of three. Because the Department's calculation of Claimant's

FAP group's net income of \$1721 is less than the \$1921 net income limit applicable to a FAP group size of four, the Department did not act in accordance with Department policy when it closed Claimant's FAP case based on net income.

With respect to the calculation of the household's income, the Department testified that it considered Claimant's income from McDonald's (weekly payments of \$74.14 on May 9, 2012; \$76.79 on May 16, 2012; \$74.87 on May 23, 2012; and \$75.05 on May 30, 2012) and from HMV (biweekly payments of \$493.56 on May 18, 2012 and \$511.56 on June 1, 2012) and her husband's income from Smart and Green Controls (\$850 twice a month). While Claimant testified that her husband did not receive any paycheck after September 15, 2012, she acknowledged that she believed her husband's income would be ongoing at the time the Department recalculated her FAP budget. She also acknowledged that she did not provide verification concerning an increase in her rent to the Department until after her FAP case closed on October 1, 2012. Thus, the Department used the correct figures in calculating the FAP group's earned income and housing expenses. However, based on the foregoing income, it is unclear how the Department arrived at an earned income figure, after the earned income deduction, of \$2523 as indicated on the FAP budget. Also, the Department applied the standard deduction of \$148 applicable to a group size of three rather than the standard deduction of \$159 applicable to a group size of four. See RFT 255, p 1. As previously discussed, the Department testified that it was not aware of any group member's failure to comply with employment-related activities. Therefore, there was no evidence that any of the members of Claimant's FAP group were disqualified from the group.

Thus, the Department did not act in accordance with Department policy in closing Claimant's FAP case when it (1) used the net income limit applicable to a group size of three, (2) calculated the FAP group's earned income, and (3) applied the standard deduction for a FAP group size of three.

### **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 .  
 did not act properly when it failed to satisfy its burden of showing that it calculated Claimant's MA deductible for her and her husband in accordance with Department policy and when it closed Claimant's FAP case.

Accordingly, for the reasons stated on the record and above, the Department's decision is  AFFIRMED  REVERSED  AFFIRMED IN PART with respect to . AND REVERSED IN PART with respect to .

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 and her husband's MA deductible for October 1, 2012, ongoing;
2. Provide Claimant and her husband with MA coverage they are eligible to receive from October 1, 2012, ongoing;
3. Reinstate Claimant's FAP case as of October 1, 2012;
4. Remove any FAP employment-related disqualification applied on or about October 1, 2012 to Claimant or a member of her FAP group;
5. Begin recalculating Claimant's FAP benefits for October 1, 2012 ongoing in accordance with Department policy and consistent with this Hearing Decision;
6. Issue supplements for monthly FAP benefits Claimant is eligible to receive but did not from October 1, 2012, ongoing; and
7. 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: December 21, 2012

Date Mailed: December 21, 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:

