

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-38676  
Issue Nos.: 2001, 2026, 3002  
Case No.: [REDACTED]  
Hearing Date: July 11, 2013  
County: Wayne (82-43)

**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 July 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

**ISSUE**

1. Did the Department properly deny Claimant's and his wife's Adult Medical Program (AMP) application?
2. Did the Department properly provide Claimant and his wife with Medical Assistance (MA) coverage subject to a monthly \$645 deductible?
3. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

**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 and his wife received MA coverage under the Group 2 Caretaker Relative (G2C) program subject to a \$645 monthly deductible. Claimant also received monthly FAP benefits between \$261 and \$263.

2. On March 18, 2013, the Department sent Claimant a Notice of Case Action denying the application for Adult Medical Program (AMP) coverage for Claimant and his wife based on excess income.
3. On March 25, 2013, Claimant filed a hearing request disputing his MA coverage and his FAP benefits.

### **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 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.*

Additionally, on March 18, Claimant filed a request for hearing contesting his MA coverage and his FAP benefits. At the hearing, the Department presented evidence showing that, effective December 1, 2012, Claimant and his wife were eligible for G2C MA coverage subject to a monthly \$645 deductible and to monthly FAP benefits of \$262. The Department also presented a March 18, 2013, Notice of Case Action advising Claimant that he and his wife were denied coverage under the Adult Medical Program (AMP) because their income exceeded the AMP income limit.

#### **Denial of AMP Application**

The March 18, 2013, Notice of Case Action advised Claimant that he and his wife were not eligible for AMP coverage because their income exceeded the AMP income limit. Income eligibility for AMP coverage exists when the AMP group's net income does not exceed the group's AMP income limit. BEM 640 (October 1, 2012), p. 3. The AMP income limit for Claimant and his wife, an individual and spouse in an independent living arrangement, is \$425. RFT 236 (April 1, 2009), p. 1.

In calculating a client's group's net income, the group is eligible for (i) an individual deduction of \$200 from each group member's gross earnings plus an additional 20% deduction of that person's remaining gross earnings and (ii) a group deduction in the amount of court-ordered support paid by the program group members in the month being tested from the program group's remaining income, **excluding** any arrearage payments. BEM 640 (October 1, 2012), p. 4. Although the Department did not provide an AMP budget showing the calculation of Claimant's and his wife's net income for AMP purposes, Claimant verified on the record that he received gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1,143 and his wife received monthly RSDI income in an amount less than \$200 and that his wife received monthly employment income of \$312 as a caretaker. The earned income deduction is available for Claimant's wife's earned income. However, Claimant's group's unearned income from RSDI, which is not subject to an individual deduction, is in excess of the AMP income limit. Although Claimant testified that a large portion of his RSDI income was withheld to pay child support, he acknowledged that the withheld benefits were for child support arrearage payments. As such, the child support payments would not be deducted in calculating Claimant's group's net income for AMP purposes. Because Claimant's unearned RSDI income exceeds the \$425 AMP income limit, the Department acted in accordance with Department policy when it concluded that Claimant and his wife were not eligible for AMP because of excess income.

### **MA Coverage and Deductible**

The Department's evidence showed that Claimant and his wife received MA coverage under the G2C program subject to a \$645 monthly deductible. 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 2011), p. 2; BEM 544 (August 1, 2008), p. 1; RFT 240 (July 2007), p. 1. In this case, the monthly PIL for an MA group of two (Claimant and his wife) living in Wayne County is \$500 per month. BEM 211 (November 2012), p. 5; RFT 200 (July 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, he is eligible for MA coverage with a monthly deductible equal to the amount that the monthly net income exceeds \$500.

In this case, while the Department provided an MA budget showing the calculation of the MA deductible, it was unable to clearly identify the income sources it used as the basis for calculating Claimant's and his wife's net income, particularly concerning the amount of the wife's RSDI income. Because the Department was unable to identify the income amounts used in the MA calculation, the Department did not satisfy its burden of

showing that it acted in accordance with Department policy when it calculated Claimant's and his wife's monthly MA deductible.

Furthermore, when an individual is eligible for MA coverage under more than one MA category, the client is entitled to the most beneficial category, which is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The Department must consider all MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2.

In this case, the Department provided Claimant and his wife with MA coverage under the G2C program. MA coverage under the G2C program is available to parents with minor children in the home. BEM 135, p. 1. However, Claimant credibly testified that he received RSDI benefits because of his disability. Because the Department identified Claimant as a senior/disabled/veteran (SDV) member of his FAP group based on his disability, the Department was aware of Claimant's disability. However, there was no evidence that the Department considered Claimant's eligibility for MA coverage under the Ad-Care program. The Ad-Care program provides full MA coverage to disabled individuals who meet the net income limit. BEM 163 (October 2010), p. 1. The income limit under the Ad-Care program for a two-member MA fiscal group (consisting of Claimant and his wife) is \$1,293 as of April 1, 2013. BEM 163, p. 2; BEM 211 (November 2012), pp. 5-6; RFT 242 (April 2013), p. 1. MA eligibility is determined on a calendar month basis. BEM 105 (October 2010), p. 1.

Because the Department did not present any evidence concerning whether Claimant's eligibility under the Ad-Care program was considered, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it concluded that the most beneficial coverage available to Claimant was under the G2C program

### **Calculation of FAP Benefits**

At the hearing, Claimant disputed the Department's calculation of his monthly FAP benefits of \$261. The Department provided a net income budget showing the calculation of Claimant's FAP benefits for May 2013 ongoing. Three concerns arose in reviewing the budget: (1) the Department was unable to establish the source for the unearned income in the budget, (2) the budget did not include a child support expense deduction, and (3) Claimant contended that his shelter expenses exceeded the amount considered by the Department.

The budget showed earned income of \$321, which Claimant verified was the monthly gross income received by his wife for providing caretaker services. However, the Department could not identify the source of the \$1,701 in unearned income. Claimant confirmed that he received \$1,143 in monthly RSDI income but could not specify the amount his wife received. While there was also evidence from Claimant that his household received an adoption subsidy, the Department excludes any adoption support subsidies from the calculation of a client's income for FAP or MA purposes. BEM 503 (May 2013), pp. 2-3. Because the Department could not identify the sources

of the unearned income presented on the budget, it could not be confirmed that the Department properly excluded the adoption subsidy in the calculation of Claimant's FAP income. Thus, the Department did not satisfy its burden of showing that it calculated Claimant's FAP budget in accordance with Department policy.

Furthermore, Claimant testified that he had child support expenses that were not shown on the FAP budget. For FAP budget calculations, a deduction is available for (i) the amount of court-ordered child support **and arrearages** paid by the household members to non-household members in the benefit month and (ii) legally obligated child support paid to an individual or agency outside the household for a child who is now a household member (provided the payments are not returned to the household). BEM 554 (October 2012), pp. 4-5. The Department testified that a consolidated inquiry should have been run in November 2012, at the time of Claimant's FAP redetermination, but could not establish whether the consolidated inquiry showed that Claimant had child support obligations. Because the Department did not include any child support payments made by Claimant in the FAP budget calculation, it did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP budget.

Claimant also disputed the Department's calculation of his monthly shelter expenses at \$55.54. The Department considers **verified** housing expenses, including property taxes, when calculating a FAP budget. BEM 554 (October 2012), p. 11. Claimant acknowledged that his sole housing expense was his yearly property taxes but contended that he paid more in annual taxes than the Department's calculation showed. Because the Department was unable to establish the amount and source it used to calculate Claimant's shelter expenses, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's housing expenses.

Because Claimant's FAP benefits were calculated in connection with a November 2012 redetermination and were effective December 1, 2012, ongoing, the Department's recalculation of Claimant's FAP budget will consider monthly FAP issuances for December 1, 2012, ongoing. See BAM 406 (October 2010), pp. 2-3.

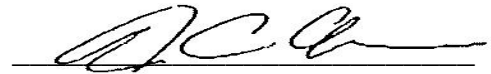
### **DECISION AND ORDER**

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 acted in accordance with Department policy when it denied Claimant's and his wife's AMP application but did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's MA eligibility and the monthly MA deductible applicable to Claimant's and his wife's G2C coverage and when it calculated Claimant's monthly FAP benefits.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED IN PART with respect to the AMP decision and REVERSED IN PART with respect to the MA and FAP budget calculations.

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 FAP and MA budgets for December 1, 2012, ongoing;
2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from December 1, 2012, ongoing;
3. Provide Claimant and his wife with MA coverage they were eligible to receive from December 1, 2012, ongoing, taking into consideration Claimant's eligibility for SSI-related MA coverage under the Ad-Care program;
4. Notify Claimant in writing of its decision; and
5. Take the preceding steps in accordance with Department policy and consistent with this Hearing Decision.



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

Date Signed: July 15, 2013

Date Mailed: July 16, 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 affect 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/pf

cc:

