

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54480
Issue No.: 2014, 3003
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Bay County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 25, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly determine the Claimant's Food Assistance Program (FAP) allotment?
2. Did the Department properly determine the Claimant's Medical Assistance (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. As of June 4, 2013, the Claimant was receiving FAP and MA benefits.
2. On June 4, 2013, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's MA deductible was increasing and FAP allotment was decreasing.
3. On June 24, 2013, the Claimant requested a hearing to challenge the increase in his MA deductible and decrease in his FAP allotment.

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 FAP [formerly known as the Food Stamp (F S) 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, R 400.3001 through Rule 400.3015.

The 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a Client's eligibility for program benefits based on the Client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the Client's future income. All income is converted to a standard monthly amount. If the Client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the Client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

The State of Michigan has set guidelines for income, which determine if a Medicaid group is eligible. Income eligibility exists for the calendar month tested when there is no excess income, or allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

The Department allows for some medical expenses to be deducted for FAP purposes as long as they meet certain criteria. For seniors, disabled individuals and veterans, the Department allows medical expense deductions if the medical expenses in the given month exceed \$35. The medical expenses must be verifiable and submitted to the Department to be counted. BEM 554.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's witness to be slightly more credible than the Claimant as the Department witness had a clearer grasp of the dates, times and events in question. Additionally, the Claimant indicated he had not received the notice of case action at issue but somehow managed to request the hearing using two pages from that very case action in question. Furthermore, the Claimant alleged to have turned in several medical expenses but could not provide copies of those documents and continued to point to medical expenses that were submitted for prior months that do not apply to the time period in question (June/July 2013). Based upon this finding, I find the Claimant did not submit additional medical expenses for the Department to consider for the months of June and July of 2013.

Therefore, after an extensive review of the Claimant's budget I have determined all calculations were properly made at review, and all FAP and MA issuance/budgeting rules were properly applied. As such, the Department's reduction of the Claimant's FAP benefits and increase to the Claimant's MA deductible must be upheld.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, I find the Department's actions to be appropriate.

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, find the Department did act properly

Accordingly, the Department's FAP and MA decision is **AFFIRMED** for the reasons stated on the record.



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 26, 2013

Date Mailed: July 26, 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

2013-54480/CAA

CAA/las

cc:

