

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

IN THE MATTER OF:

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Reg. No.: 2013 54926
Issue No.: 2026; 3003
Case No.: ██████████
Hearing Date: July 25, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly provide Medical Assistance (MA) coverage for Claimant with a \$110 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 MA and FAP benefits.
2. On June 13, 2013, the Department sent Claimant a Notice of Case Action informing Claimant that he was entitled to FAP benefits of \$378 per month.
3. A Notice of Case Action dated in June 2013 changed the Claimant's Medical Assistance deductible to \$110.

4. The Claimant receives \$1396 in RSDI income per month. The Claimant's Food Assistance Group consists of the Claimant, his spouse and two children.
5. The Claimant receives RSDI and thus is an SDV group and is entitled to deduct ongoing medical expenses.
6. When calculating the Group 2 SSI spend down the Department used income in the amount of \$990 and a pro rate divisor of 5.9.
7. The Department when calculating the Claimant's FAP benefits removed medical expense deduction of \$70 believing that medical expenses needed to be submitted each month.
8. On June 18, 2013, Claimant requested a hearing contesting the Department's action.

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 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.

FAP Benefits

At the hearing, the Department produced the budget used to establish the food assistance allotment for July 1, 2013 ongoing. The food assistance budget was changed due to a change in income. The FAP budget was reviewed during the hearing and it was determined that the Claimant's income was correct and was confirmed by the Claimant. The Shelter allowance was also reviewed and it was determined that the excess shelter amount of \$273 based upon homeowners insurance and taxes in the amount of \$316.18 was correct. The Department also correctly included the Shelter allowance in the amount of \$575. Based upon these calculations and confirmed information, the FAP budget as presented appeared correct. Exhibit 2, RFT 255; BEM 554; BEM 556.

At the time the budget was prepared the Department testified that an ongoing medical expense of \$70 which had previously been included in the Claimant's FAP budget as a medical expense was removed. Claimant receives RSDI and his FAP group is a FAP SDV group due to the Claimant being disabled. At the hearing the Department testified that the medical expense was removed because there was no verification of the amount on a monthly basis. After the hearing DHS Policy BEM 554 was consulted and it is determined that the Department incorrectly removed the medical expenses without first determining whether they had previously been determined as ongoing and previously determined to be correct or without requesting verification of medical expenses. BEM 554, pp. 9 (7/1/12). Additionally, BEM 554 as regards FAP calculations provides:

A FAP group is not required to, but may voluntarily report changes during the benefit period. Process changes during the benefit period only if they are one of the following:
Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.
Reported by another source and you have sufficient information and verification to determine the allowable amount without contacting the FAP group.

Therefore the Department's removal of medical expenses is deemed contrary to Policy found in BEM 554, pp. 6-9 (7/1/12).

On further review of Claimant's FAP budget based on the removal of the medical expenses without verification or without determination as to whether they were based upon a prior determination of the ongoing monthly amount, it is determined that removal of medical expenses was contrary to DHS policy and incorrect.

MA Coverage

The Claimant was approved for a spend down amount effective June 1, 2013. The Claimant questioned the amount of the spend down when he requested a hearing. The Claimant was eligible for a Group 2 SSI related Medical Assistance. The Budget that the Department relied upon to determine the spend down was presented at the hearing and reviewed. Exhibit 3. The Department testified that the income used to calculate the MA budget was \$990 rather than \$1396, the amount of RSDI received. The Department did not provide a basis or explanation to support the use of the \$990 income such as an SOLQ. Thus the income amount of \$990, although used to calculate the spend down, was not otherwise confirmed by the Claimant. The Department correctly used a pro rate divisor of 5.9 based upon the Claimant's spouse and children being part of the group. The monthly protected income level for an MA group of two, the Claimant and his spouse, living in Oakland County is \$541 per month. RFT 200, 240 and was correctly determined by the Department. The Department however did not substantiate the use of the \$990 income and therefore the budget as presented cannot be found to be supported by the evidence presented as the evidence of income was insufficient, and use of \$990 in income could not be determined to be correct. BEM 545; 42 CFR 435.831.

Therefore based upon the evidence presented the imposition of the \$110 spend down deductible as presented is incorrect and must be recalculated as the Department did not sustain its burden of proof.

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 not act properly when it calculated Claimant's deductible amount under Claimant's Group 2 MA program.

did not act properly when it removed the Claimant's medical expenses from the FAP budget without requesting verification.

Accordingly, the Department's decision is

AFFIRMED

REVERSED

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recalculation of the Claimant's FAP budget as of July 2013 ongoing and shall seek verification of medical expenses and determine if some of the expenses are ongoing and include the verified medical expenses when recalculating the FAP benefits.
2. The Department shall issue a supplement for FAP benefits, if any, the Claimant is otherwise entitled to receive in accordance with Department policy.
3. The Department shall also initiate recalculation of the Group 2 MA spend down amount and confirm and identify the Claimant's income amount used to calculate the spend down amount.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 2, 2013

Date Mailed: August 2, 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

LMF/cl

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