

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54936
Issue Nos.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: July 24, 2013
County: Wayne (82-19)

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 24, 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].

ISSUE

1. Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$700 deductible?
2. 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 was an ongoing recipient of MA and FAP benefits.
2. Claimant's MA coverage was subject to a monthly \$700 deductible.
3. Claimant received monthly FAP benefits of \$200 for May 2013, June 2013, and July 2013, and was scheduled to receive \$156 for August 2013 ongoing.

4. On June 28, 2013, Claimant filed a hearing request disputing the Department's calculation of his FAP and MA 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.

Additionally, Claimant requested a hearing concerning his FAP and MA cases.

MA Case

At the hearing, Claimant raised concerns regarding the Department's calculation of his \$700 monthly deductible, the application of medical expenses to his deductible, and the Department's failure to activate his personal care service home help payments.

The Department testified that Claimant was eligible for MA coverage with a monthly \$700 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 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 size of one living in Wayne County is \$375 per month. RFT 200 (July 1, 2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$375, he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$375. BEM 545 (July 1, 2011), p. 2.

During the hearing, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. In this case, Claimant verified his gross monthly Retirement, Survivors, and Disability Income (RSDI) benefits of \$1,095. Claimant's gross monthly unearned income of \$1,095 is reduced by a \$20 disregard,

resulting in a net unearned income of \$1,075. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 3. During the hearing, the Department was able to establish that Claimant received Specified Low-Income Medicare Beneficiaries (SLMB) coverage, which results in the State's payment of Claimant's Part B Medicare premium. See BEM 165 (May 2013), pp. 1-2. Thus, Claimant was not eligible for a deduction for the Part B Medicare premium, and Claimant's testimony at the hearing established that he was not eligible for any further deductions from his net unearned income. See BEM 544, pp. 1-2. Therefore, Claimant's net income for MA purposes was \$1,075. Because Claimant's net income of \$1,075 exceeded the \$375 protected income level (PIL) applicable to him by \$700, Claimant was eligible for MA coverage with a \$700 monthly deductible. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's MA coverage and monthly deductible.

At the hearing, Claimant expressed concerns about the Department failing to apply his medical expenses to his deductible. To meet a deductible, the client must report and verify allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 9. In this case, the Department testified that Claimant had met his deductible for April 2013, May 2013, and June 2013. Thus, Claimant's concerns were addressed with respect to these months. Because Claimant had not submitted any verified medical expenses for July 2013 as of the hearing date, the Department testified that it was unable to determine whether Claimant had met his deductible for July 2013. Claimant and his AHR acknowledged that July 2013 expenses had not been submitted to the Department. Because no verified expenses were submitted, the Department acted in accordance with Department policy when it did not process Claimant's MA eligibility for July 2013.

Claimant was also concerned because the Department had advised him that he was eligible for adult caregiver services paid for by the State for June 1, 2013, ongoing but had been unable to activate his coverage. A Department services specialist is responsible for obtaining verification of the need for personal care services and making the Home Help eligibility determination. BEM 545 (July 2011), p. 19. The services specialist has access to the amount the Department has or will approve for personal care services and the amount of personal care services required but not approved by the Department. BEM 545, p. 19.

In this case, Claimant testified that his services specialist informed him that he was eligible for personal care services in the home but was unable to activate his coverage because of the manner in which he was "coded." At the hearing, the Department was unable to respond to Claimant's concerns regarding the activation of his personal care services. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in activating Claimant's eligibility for personal care services. It is noted that, once such coverage is activated, Claimant must consider whether he is eligible to pay his excess income amount directly to his personal care provider in order to activate his MA coverage for the month and wishes to have the Department reduce its payment for personal care services by the amount of his excess income. See BEM 545, pp. 18-19.

FAP Benefits

Claimant identified on his hearing request that he was concerned about the amount of his FAP benefits. At the hearing, Claimant testified that his monthly benefits fluctuated without explanation.

The Department did not provide any FAP net income budgets with the hearing packet. The budget in a May 16, 2013, Notice of Case Action notifying Claimant that he was eligible for FAP benefits of \$156 beginning June 1, 2013, was compared to the budget in the June 14, 2013, Notice of Case Action, which advised Claimant of a FAP supplement of \$44 for June 2013, bringing his monthly FAP allotment for June to \$200. Claimant confirmed the figures for income and rent shown on both budgets. Both budgets also referenced the \$148 standard deduction applicable to Claimant's FAP group size of one and the \$575 heat and utility standard used to calculate the excess shelter deduction for all FAP applicants and recipients. See RFT 255 (October 2012), p. 1; BEM 554 (October 2012), p. 11; BEM 556 (July 2011), pp. 3, 4. A calculation of Claimant's net income based on these figures shows that Claimant's monthly net income was \$145. See BEM 556, pp. 1-5. Based on monthly net income of \$145, Claimant was eligible for monthly FAP benefits of \$156. RFT 260 (December 2012), p. 2.

The only difference between the budget on the May 16, 2013, and June 13, 2013, Notices of Case Action is that the June 14, 2013, budget shows medical expenses of \$665. Claimant, as a senior/disabled/veteran (SDV) member of his FAP group is eligible for a deduction for verified medical expenses in excess of \$35. BEM 554 (October 2012), p. 1. When these medical expenses are considered in the calculation of Claimant's net income for June 2013, his net income decreased to \$0 and made Claimant eligible for \$200 in monthly FAP benefits, the maximum available for a FAP group with a single member, for the month of June 2013. RFT 260, p. 1. Accordingly, the Department advised Claimant that he would receive a \$44 supplement to the \$156 in FAP benefits previously issued to him to make his total FAP allotment for the month of June \$200. Thus, it appears that the fluctuations in Claimant's monthly FAP benefits are due to the medical expenses Claimant submits. When medical expenses are considered in Claimant's FAP budget, they may result in an increase in the \$156 in monthly FAP benefits Claimant would otherwise receive in the absence of such expenses.

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 calculated Claimant's MA deductible and his monthly FAP benefits and activated his MA coverage once verified medical expenses were submitted but did not satisfy its burden of showing that it acted in accordance with

Department policy when it processed Claimant's request for home care services payments.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED IN PART with respect to calculation of Claimant's MA deductible and monthly FAP benefits and REVERSED IN PART with respect to processing Claimant's request for home help care services.

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

1. Continue processing Claimant's home personal care service request in accordance with Department policy;
2. Notify Claimant of the amount approved for his home personal care services; and
3. Issue payments to Claimant's provider for home personal care service benefits Claimant is eligible to receive from June 1, 2013, ongoing in accordance with Department policy.



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

Date Signed: July 29, 2013

Date Mailed: July 30, 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.

2013-54936/ACE

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:

