

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-57164
Issue Nos.: 2026;3002
Case No.: ██████████
Hearing Date: August 8, 2013
County: Wayne (23)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on August 8, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Family Independence Specialist.

ISSUE

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA) and Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP and MA.
2. In connection with a redetermination, Claimant's eligibility for FAP and MA was reviewed.
3. On June 12, 2013, the Department sent Claimant a Notice of Case Action informing her that effective July 1, 2013, she was approved for FAP benefits in the amount of \$16.00 and MA benefits with a \$526.00 deductible. (Exhibit 1)
4. Claimant was not in agreement with the calculation of her FAP benefits and MA deductible.

5. On June 21, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

MA

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.

Individuals are eligible for Group 2 MA coverage under the Caretaker Relative program when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (October 2010), p 1; BEM 135 (January 2011), pp 1-6; BEM 544 (August 2008), p 1; RFT 240 (July 2007), p 1. The monthly PIL for an MA group of one (Claimant) living in Wayne County is \$375.00 per month. RFT 200 (July 2007), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income is in excess of the \$375.00, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375.00. BEM 545 (July 2011), p 1.

In this case, the Department sent Claimant a Notice of Case Action informing her that effective July 1, 2013, she was approved for MA under the Group 2 Caretaker Relatives program with a deductible of \$526.00. (Exhibit 1). Claimant requested a hearing disputing the calculation of this deductible. At the hearing, the Department failed to produce a MA budget showing how the deductible in Claimant's case was calculated. The Department provided an unearned income budget summary; however, remained unable to explain the income calculation or which figures were relied on in calculating Claimant's deductible. (Exhibit 5). After further review of the evidence, it remained unclear how the Department determined that Claimant's income exceeded the \$375.00 income limit, leaving her with a deductible amount of \$526.00. Therefore, the Department failed to satisfy its burden in establishing that it acted in accordance with Department policy when it calculated Claimant's deductible. As such, the Department's decision is REVERSED.

FAP

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.

In the present case, on June 12, 2013, the Department sent Claimant a Notice of Case Action informing her that she was approved for FAP benefits in the amount of \$16.00 effective July 1, 2013. (Exhibit 1). Claimant disputed this amount. Claimant requested a hearing to dispute the Department's calculation of her FAP benefits.

At the hearing, the budget from the FAP EDG Net Income Results was reviewed. (Exhibit 2). All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department concluded that Claimant had unearned income of \$1,339.00 which came from unemployment compensation and child support. The Department presented an unemployment compensation search which established that Claimant receives \$486.00 in bi-weekly unemployment benefits. (Exhibit 3). Claimant also confirmed this amount.

The Department is to count the gross amount of unemployment benefits as unearned income. BEM 503 (July 2013), pp. 26. A standard monthly amount must be determined for each income source used in the budget. BEM 505 (October 2010), p. 6. Income received bi-weekly is converted to a standard monthly amount by multiplying the average by the bi-weekly amounts by the 2.15 multiplier. BEM 505, pp. 6-7. The Department testified that it prospectively budgeted the unearned income from unemployment by multiplying the average of the \$486.00 in bi-weekly benefits by the standard multiplier to properly conclude that Claimant has \$1,044.00 in unearned income from unemployment.

Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503, pp 4-7. The Department is to enter child support payments received by a custodial party for an adult child or a child no longer living in the home, as the other unearned income of the payee as long as the money is not forwarded to the adult/child. If forwarded to the adult/child, the Department is to enter the amount as the other unearned income of the adult/child. BEM 503, pp. 6-7. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, p. 3.

The Department testified that it calculated \$294.81 as Claimant's unearned income from child support for FAP purposes. The Department testified that Claimant's mother receives child support (as a payee) on behalf of Claimant who is an adult and relied on a child support search in making this determination. (Exhibit 4). The Department stated that because Claimant lives with her mother, the child support should be included as

other unearned income of Claimant. BEM 503, pp. 6-7. This is not correct. Claimant's mother is not a member of Claimant's group for FAP purposes, so any income from child support received by Claimant's mother should not be applied to Claimant's household income for FAP purposes. Further, the Department did not present any evidence to establish that the money received by Claimant's mother is forwarded to Claimant. Therefore, the Department did not act in accordance with Department policy when it calculated Claimant's unearned income and included income from child support.

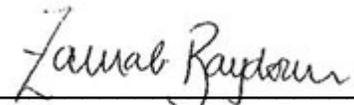
Although the FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of two; that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied and Claimant confirmed that she does not have any housing costs, because of the errors in the calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$16.00 effective July 1, 2013. (Exhibit 1); RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12.

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 in accordance with Department policy when it calculated Claimant's MA deductible and her FAP benefits. Accordingly, the Department's MA and FAP decisions are REVERSED.

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 MA deductible and FAP budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin issuing supplements to Claimant for any MA and FAP benefits that she was entitled to receive but did not from July 1, 2013, ongoing; and
3. Notify Claimant of its decision in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 20, 2013
Date Mailed: August 20, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ZB/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]