

**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.: 2013-59402
Issue No.: ██████████
Case No.: 2026; 3019
Hearing Date: August 21, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits in the amount of \$16 effective July 1, 2013, ongoing?

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible in the amount of \$424 effective August 1, 2013, ongoing?

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 is an ongoing recipient of FAP and MA benefits. See Exhibit 2.
2. On May 1, 2013, the Department sent Claimant a Semi-Annual Contact Report, which was due back by June 1, 2013. Exhibit 1.
3. On May 16, 2013, Claimant submitted the Semi-Annual Contact Report. See Exhibit 1.

4. On July 3, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her FAP benefits were approved in the amount of \$16, effective July 1, 2013, ongoing. Exhibit 1.
5. Effective August 1, 2013, ongoing, Claimant would receive MA coverage under the Group 2 Caretaker (G2C) program, with a \$424 deductible. Exhibits 1 and 2.
6. On July 17, 2013, Claimant filed a hearing request, protesting her FAP and MA benefits. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

FAP benefits

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.

On July 3, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her FAP benefits were approved in the amount of \$16, effective July 1, 2013, ongoing. Exhibit 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

At the hearing, the Department presented the FAP July 2013 budget for review. See Exhibit 1. It was not disputed that the certified group size was two and that the FAP group does not contain a senior/disabled/disabled veteran (SDV) member. The Department calculated Claimant's total earned income amount to be \$1,305. The Department testified that it calculated this amount based on Claimant's submitted Compensation Detail document. See Exhibit 1. However, during the hearing, the Department was unable to testify which pay period it used to calculate her earned income. Moreover, the Department was unable to testify which earnings it used to

calculate the earned income. The budget also indicated that Claimant's earned income was ineligible for the earned income deduction. See Exhibit 1 and BEM 550 (February 2012), p. 1. However, the Department also was unable to testify why her earned income did not qualify for the earned income deduction.

Claimant testified that she disagreed with the earned income calculation. Claimant testified that she works 25-30 hours a week, is paid \$12.00 an hour, is paid weekly, and earns a gross monthly pay of \$1,100.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 27. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 27. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 27. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 29.

Based on the foregoing information, the Department did not satisfy its burden of showing that it acted in accordance with Department policy because it was unable to testify on how it calculated Claimant's FAP benefits.

It should be noted that the Department indicated that Claimant received \$650 in child support income. See Exhibit 1. Claimant was not sure about this calculation. The Department uses the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 3. The Department did present at the hearing a child support direct (court-ordered) document, which indicated how much Claimant received in child support income. However, again, the Department was unable to testify on which earnings it used to calculate the child support income. Nevertheless, the Department will have to recalculate the FAP budget.

It should also be noted that the Department indicated that Claimant had \$700 for her housing expenses for July 2013. See Exhibit 1. Claimant disagreed with this amount because she stated that her housing expense was \$1,000. However, Claimant testified that she reported this change in July 2013. Moreover, the Semi-Annual Contact Report that Claimant completed did not list any changes in her housing expenses. Based on this information, the Department testified that it used Claimant's previous housing expenses in the amount of \$700 because there was no reported change. Thus, the Department properly applied the \$700 for Claimant's housing expenses. See BAM 105 (March 2013), pp. 7-8; See BEM 554 (October 2012), p. 1.

In summary, the Department will have to recalculate Claimant's FAP benefits for the effective benefit period of July 1, 2013, ongoing. The Department did not satisfy its burden of showing that it acted in accordance with Department policy.

MA benefits

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.

As a preliminary matter, Claimant filed a hearing request in July 2013 disputing her MA deductible. Specifically, Claimant was disputing her \$424 deductible effective August 1, 2013, ongoing. The Department did not present a Notice of Case Action at the hearing to determine if whether such notice was sent regarding the deductible. Nevertheless, Claimant is allowed to dispute her MA deductible per policy. See BAM 600, pp. 3-4. Thus, the hearing proceeded with reviewing Claimant's MA deductible.

Effective August 1, 2013, ongoing, Claimant received MA coverage under G2C program, with a \$424 deductible. Exhibits 1 and 2.

The Department provided copies of Claimant's MA budget showing the calculation of Claimant's deductible for August 2013. Exhibit 1. In determining a client's net income for MA purposes, the Department testified that the adult's prorated income was \$287. Additionally, the Department calculated Claimant's net income of \$832 in accordance with Department policy. See BEM 536 (January 2010), pp. 1-5.

Clients are eligible for full MA coverage when net income 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 2008), p. 1; RFT 240 (July 2007), p. 1. In this case, the monthly PIL for an MA group of one living in Oakland County is \$408 per month. RFT 200 (July 2007), p. 1; RFT 240, p. 1.

Because Claimant's monthly total net income of \$832 exceeds the \$408 PIL by \$424, the Department concluded that Claimant was eligible for MA coverage under the G2C program with a monthly deductible of \$424.

However, the Department was unable to testify how it calculated the prorated income or the net income. Based on the foregoing information, the Department did not satisfy its burden of showing that it acted in accordance with Department policy because it was unable to testify on how it calculated Claimant's MA deductible. See BAM 600, pp. 27-29. The Department will have to recalculate the MA budget effective August 1, 2013, ongoing.

It should also be noted that Claimant testified that she was advised by the Department that her MA benefits were closed for three months due to inactivity. However, a review of the Eligibility Summary does not indicate that Claimant's MA benefits were closed. See Exhibit 2. Claimant has had active MA coverage since July 2012. See Exhibit 2.

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 (i) improperly calculated Claimant's FAP benefits effective July 1, 2013, ongoing, and (ii) improperly calculated Claimant's MA deductible effective August 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Begin recalculating the FAP budget for July 1, 2013, ongoing, in accordance with Department policy;
2. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 1, 2013, ongoing;
3. Begin recalculating the MA budget for August 1, 2013, ongoing, in accordance with Department policy;
4. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from August 1, 2013, ongoing; and
5. Begin notifying Claimant in writing of its FAP and MA decision in accordance with Department policy



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 28, 2013

Date Mailed: August 28, 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

EJF/cl

cc:

[REDACTED]
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