

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

IN THE MATTER OF:



Reg. No.: 2013-66196
Issue Nos.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: October 2, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$900 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. On August 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective October 1, 2013, her monthly MA deductible was increasing to \$900 and her monthly FAP benefits were decreasing to \$163.

3. On August 30, 2013, Claimant filed a hearing request disputing the Department's calculation of her MA deductible and FAP 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, Claimant requested a hearing disputing the Department's calculation of her MA deductible and monthly FAP benefits.

MA Deductible

The Department testified that Claimant was eligible for MA coverage with a monthly \$900 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 2010), p. 1; BEM 166 (October 2010), pp. 1-2; BEM 544 (August 1, 2008), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA group size of one living in Wayne County is \$375. RFT 200 (July 2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$375, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly income exceeds \$375. BEM 545 (July 2011), p. 2.

The Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. In this case, Claimant verified her gross monthly Retirement, Survivors, and Disability Income (RSDI) benefits of \$1,295. Claimant's gross monthly unearned income of \$1,295 is reduced by a \$20 disregard, resulting in a net unearned income of \$1,275. See BEM 163, p. 2; BEM 530 (October 2012); BEM 541 (January 2011), p. 3. During the hearing, the Department was able to establish that the State pays 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 she was not eligible for any further deductions from her net unearned income. See BEM 544, pp. 1-2. Therefore, Claimant's net income for MA purposes was \$1,275. Because Claimant's net income of \$1,275 exceeded the applicable \$375 PIL by \$900, the Department acted in accordance with Department policy when it determined that Claimant's MA coverage was subject to a monthly \$900 deductible.

FAP Benefits

The Department produced a FAP budget showing the calculation of Claimant's FAP allotment for October 1, 2013, ongoing. Claimant verified there were two members in her FAP group: her and her adult daughter. She also verified that she received monthly RSDI income of \$1,295, as shown on the FAP budget.

At the hearing, Claimant verified that her group did not have day care or child support expenses. The Department acknowledged that Claimant was disabled and was a Senior/Disabled/Veteran (SDV) member of her FAP group. As an SDV member of the FAP group, she is eligible for a medical deduction for verified medical expenses over \$35. BEM 554 (October 2012), pp. 6-9. At the time the budget was prepared, there were no currently billed or currently incurred medical expenses provided to the Department. See BEM 554, pp. 3, 9. Claimant was advised to submit documentation of her current medical expenses to the Department for the Department's consideration in future FAP benefits.

Based on the evidence presented at the hearing, Claimant's FAP group was eligible for a standard deduction and an excess shelter deduction. Effective October 1, 2013, clients with a FAP group size of two are eligible for a \$151. RFT 255 (October 2013), p. 1. Therefore, the Department did not act in accordance with Department policy when it applied a \$148 standard deduction.

The Department testified that, in calculating the excess shelter deduction, it considered Claimant's monthly \$1,025 rent and the \$575 heat and utility standard applicable to all FAP recipients, but then applied the maximum \$469 excess shelter deduction applicable to households without an SDV member because Claimant's daughter, the other member of her FAP group, was not an SDV member. BEM 554 (October 2012), p. 1, provides that for FAP groups with no SDV member, the excess shelter deduction is limited to the maximum provided in RFT, but for FAP groups "with one or more SDV members," the Department applies the excess shelter deduction. Therefore, Claimant, as an SDV member of her FAP group, was eligible for an excess shelter deduction in the full amount calculated and was not subject to the maximum in RFT 255 despite the fact that her daughter was not an SDV member of the group. As such, the Department did not act in accordance with Department policy when it limited Claimant's excess shelter deduction and, consequently, when it calculated Claimant's FAP benefits (October 2012), p. 1; BEM 554, p. 1.


Although the Department denied receiving any reported changes, Claimant also credibly testified at the hearing that she reported a change of address and shelter expenses, and included a copy of her lease, with her August 30, 2013, hearing request. The Department is required to process the reported change in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the calculation of Claimant's monthly MA deductible and REVERSED IN PART with respect to the calculation of Claimant's monthly FAP benefits.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Begin recalculating Claimant's FAP benefits for October 1, 2013, ongoing; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing.


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

Date Signed: October 8, 2013

Date Mailed: October 8, 2013

NOTICE OF APPEAL: 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.

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).

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

ACE/pf

cc:

