

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

IN THE MATTER OF:



Reg. No.: 2013-68811
Issue No.: 3015; 2026
Case No.: [REDACTED]
Hearing Date: October 22, 2013
County: Cass

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 22, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager, [REDACTED] and Eligibility Specialist, [REDACTED].

ISSUE

1. Did the Department properly deny the Claimant's application for Food Assistance Program (FAP) benefits because of excess income?
2. Did the Department properly determine the Claimant's deductible for his Medical Assistance (MA) case?

FINDINGS OF FACT

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

1. On September 10, 2013, the Claimant applied for FAP and MA. (Though the Claimant was already eligible for and receiving MA-G2S benefits with a deductible).
2. The Claimant met his deductible for August 28-31, 2013, but did not meet his deductible for September 1, 2013, ongoing.
3. For FAP, the Claimant's group consists of two persons, himself and [REDACTED].

4. The Claimant's income and [REDACTED] income (as reported on the September 10, 2013 DHS-1171, Assistance Application submitted by the Claimant) were considered in the FAP budget.
5. On September 10, 2013, the Department completed an in person interview with the Claimant and then sent the Claimant a DHS-3503, Notice of Case Action denying the Claimant's application for FAP due to excess income.
6. On September 13, 2013, the Department received the Claimant's written hearing request protesting the denial of his application for FAP and his deductible amount.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

During the hearing, the Claimant testified that [REDACTED] income was not accurate. The Claimant testified that, even though he reported on the DHS-1171, Assistance Application that [REDACTED] began a [REDACTED] on [REDACTED] and was working 40 hours a week, [REDACTED] never did work 40 hours a week and lost that [REDACTED] shortly after he started. The Claimant testified that he knew this in the first week that [REDACTED] began his [REDACTED] yet he reported that [REDACTED] had this income 10 days after [REDACTED] started the job. The Claimant was asked why it was that he would report this inaccurately. The Claimant responded that he suffers from [REDACTED] and does not understand this process. The Claimant further testified that [REDACTED] did start a new job on the day of the instant hearing, but he does not know how long [REDACTED] will keep that job.

Bridges Administrative Manual (BAM) 130 (2012) p. 1, provides that verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. It instructs department workers to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information. Verification is not required when the Claimant is clearly ineligible.

When the Department calculated the FAP budget including [REDACTED] income as reported by the Claimant, the Claimant had over \$ [REDACTED] excess income to be eligible for FAP. Therefore, the Claimant was clearly ineligible for FAP and verification was not required. As such, the Administrative Law Judge determines that when the Claimant's application for FAP was denied, the Department was acting in accordance with its policy. The Claimant testified that his circumstances have changed and [REDACTED] may not have much, if any, income. The Claimant can reapply for benefits and the Department can then determine his eligibility considering his change in circumstances.

During the hearing, the Claimant did not contest his income, nor did he contest any of the figures in the MA budget. The Administrative Law Judge therefore determines that the Department properly counted the Claimant's income.

The Claimant receives RSDI income of \$ [REDACTED] and earned income of \$ [REDACTED]. Per BEM 105 (2010) p. 1, Michigan provides MA to eligible Claimants under two general classifications: group 1 and group 2 MA. The Claimant qualified under the group 2 MA classification which consists of claimants whose eligibility results from the state designating certain types of individuals as medically needy. Per BEM 545 (2011), in order to qualify for group 2 MA, a medically needy claimant must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimants in Adult Care Homes.

If the Claimant's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. The policy requires the Department to count and budget all income received that is not specifically excluded. There are three main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM 500, p. 1.

In the instant case, the Department calculated the Claimant's income based upon his receipt of RSDI income in the amount of \$ [REDACTED] per month and earned income of \$ [REDACTED] per month. After giving the Claimant the appropriate unearned income general exclusion of \$ [REDACTED] the Claimant was left with net unearned income of \$ [REDACTED]. The Claimant has earned income of \$ [REDACTED]. BEM 541 lists MA deductions and instructs

the Department's worker to disregard \$ [REDACTED] plus 1/2 of the fiscal group's remaining earnings. In this case, the Department's worker did just that, leaving a remaining earned income amount of \$ [REDACTED] which is then added to the remaining unearned income amount for a total of \$ [REDACTED]. The Claimant did not provide the department with a deduction for insurance premiums or remedial services, so none were allowed. This Administrative Law Judge has reviewed the record and the exhibits and finds that the Claimant's countable net monthly income was \$ [REDACTED].

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The Department is in compliance with RFT 240, which indicates that the Claimant's monthly protected income level for the Claimant's fiscal group of one person is \$ [REDACTED] \$ [REDACTED] per month in net income minus the total needs of \$ [REDACTED] in protected income level equals \$ [REDACTED] in excess income. The Department's determination that the Claimant has excess income/deductible in the amount of \$ [REDACTED] for purposes of MA eligibility is therefore correct and found to be in accordance with departmental policy.

When a Claimant has a deductible, there is a process which allows the Claimant to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. Meeting the deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, 545, p. 1, 9.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it took action to deny the Claimant's application for FAP and when it determined the Claimant's MA deductible.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/25/13

Date Mailed: 10/28/13

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

SEH/tb

cc:

