

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-1164
Issue No(s): 2026, 3003
Case No.: [REDACTED]
Hearing Date: October 31, 2013
County: Macomb-20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, telephone hearing was held on October 31, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

- 1) Did the Department properly determine that the Claimant would have a monthly Medicaid (MA) deductible effective July 1, 2013?
- 2) Did the Department properly calculate the Claimant's Food Assistance Program (FAP) monthly allotment?

FINDINGS OF FACT

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

1. The Claimant is an ongoing recipient of FAP benefits.
2. Beginning June 30, 2013, the Claimant received bi-weekly income of \$ [REDACTED] in unemployment compensation. (Exhibit 5)
3. On July 16, 2013, the Claimant applied for MA.
4. On August 1, 2013, the Department issued a Notice of Case Action to the Claimant, in part stating the Claimant would have MA coverage with no monthly deductible from April 1, 2013, through June 2013, and starting July 1, 2013, the Claimant would have a MA deductible of \$ [REDACTED] per month. (Exhibit 3)

5. On August 15, 2013, the Department issued a Notice of Case Action to the Claimant stating the MA case would continue with no deductible for the period of June 1, 2013, through June 30, 2013, and the FAP allotment would decrease to \$ [REDACTED] per month starting September 1, 2013. (Exhibit A)
6. On September 24, 2013, the Claimant filed a hearing request, protesting the Department's actions regarding MA and FAP and noted the Department has only been including part of her housing costs. (Request for Hearing)
7. The Department re-calculated the Claimant's FAP budget including both the \$ [REDACTED] association fee and \$ [REDACTED] land contract payment in the housing costs. (Exhibit 1, page 2)
8. On or about September 27, 2013, the Department issued a Notice of Case Action to the Claimant stating the monthly FAP allotment was increased to \$ [REDACTED] per month effective October 1, 2013. (Exhibit B)

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, for unemployment benefits, the gross amount is counted as unearned income. BEM 503. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Amounts received every two weeks are multiplied by 2.15. BEM 505. In determining budgetable income for Group 2 FIP-related MA and Health Kids categories, how a client's income must be considered may differ among family members so special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536.

Beginning June 30, 2013, the Claimant received bi-weekly income of \$ [REDACTED] in unemployment compensation. (Exhibit 5) The Claimant applied for MA on July 16,

2013. (Eligibility Specialist Testimony) The evidence indicates the Claimant also applied for retroactive Medicaid for the three months prior to the month in which the Medicaid application was filed. Utilizing the special rules for determining budgetable income for Group 2 FIP-related MA and Health Kids categories, the Claimant's MA eligibility changed to having a monthly deductible of \$ [REDACTED] when she began receiving the unemployment compensation. (Exhibit 4) Accordingly, on August 1, 2013, the Department issued a Notice of Case Action to the Claimant, in part stating the Claimant would have MA coverage with no monthly deductible from April 1, 2013 through June 30, 2013, and starting July 1, 2013, the Claimant would have a MA deductible of \$ [REDACTED] (Exhibit 3)

The Claimant noted that the August 15, 2013, Notice of Case Action stated her MA continued with no deductible. However, this notice also states the period that the Claimant's MA continued with no deductible was June 1, 2013, to June 30, 2013. (Exhibit A) It is unclear why this information regarding MA only for the month of June 2013 was included on the August 15, 2013, notice of the FAP decrease. However, this was not a change of the MA eligibility determination. The August 1, 2013 Notice of Case Action also showed that the Claimant had no deductible for the month of June 2013. (Exhibit 3) The Claimant's MA eligibility changed to having a deductible of \$ [REDACTED] as of July 1, 2013, based on the income from unemployment that began June 30, 2013.

The start of unemployment income also prompted review of the Claimant's FAP case. The Claimant disputed the figure of \$ [REDACTED] that was utilized for the countable unearned income in the FAP budget. (Exhibit 2, page 1) The BEM 505 policy requires that amounts received every two weeks are multiplied by 2.15. \$ [REDACTED] is the correct standardized monthly amount for bi-weekly income of \$ [REDACTED]. Accordingly, on August 15, 2013, the Department issued a Notice of Case Action to the Claimant stating, in part, that the FAP allotment would decrease to \$ [REDACTED] per month starting September 1, 2013. (Exhibit A)

In the September 24, 2013 hearing request, the Claimant asserted that the Department has not been utilizing all of the monthly housing costs in the FAP budget. The Eligibility Specialist testified that in January 2013, the Claimant provided verification of monthly housing costs including both a \$ [REDACTED] association fee and \$ [REDACTED] land contract payments. Upon receipt of the Claimant's Hearing Request, the FAP budget was reviewed and it was found that only part of the Claimant's housing costs were being included. (Eligibility Specialist Testimony) The Claimant's FAP budget was re-calculated with both the association fee and land contract amounts included in the updated shelter cost of \$ [REDACTED] (Exhibit B, page 2) Accordingly, on September 27, 2013 a Notice of Case Action was issued to the Claimant stating the monthly FAP allotment was increasing to \$ [REDACTED] per month effective October 1, 2013. (Exhibit B)

The evidence indicates that the Department received the verification of the Claimant's housing costs in January 2013 and erred by not including both the association fee and land contract monthly payments in prior FAP budgets. However, there is no jurisdiction

to review the Claimant's FAP case back to January 2013 based on the September 24, 2013 request for hearing. In her testimony, the Claimant acknowledged that she did not ask for a hearing when this problem with her FAP allotment began. The Claimant explained that she was going through things at work and was ill. The Claimant's request for hearing was filed September 24, 2013 and the Department promptly corrected the FAP budget to include the full shelter costs leading to the increased FAP allotment starting October 1, 2013.

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 determined the Claimant would have a MA deductible of \$█ effective July 1, 2013, and when it re-calculated the Claimant's FAP budget determining the monthly allotment would increase to \$█ effective October 1, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 7, 2013

Date Mailed: November 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

CL/las

cc:

