

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

IN THE MATTER OF:

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

Reg. No.: 2014-5685
Issue No(s): 2026;3002
Case No.: ██████████
Hearing Date: November 21, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 November 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits and her Medical Assistance (MA) deductible?

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 FAP and MA benefits.
2. In connection with a redetermination, Claimant's eligibility to receive FAP and MA benefits was reviewed.
3. Claimant was approved for FAP benefits in the amount of ██████████
4. Claimant was approved for MA under the Group 2 program with a deductible of ██████████

5. On October 8, 2013, Claimant submitted a hearing request disputing the calculation of her FAP benefits and MA deductible.

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).

MA

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, individuals are eligible for Group 2 Caretaker MA coverage 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 135 (July 2013), p 1; BEM 544 (July 2013), p 1; BEM 545(July 2013); RFT 200 (July 2007);RFT 240 (July 2007), p 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (July 2013); BEM 536 (July 2013). A multi-step process is utilized when determining a fiscal group member's income. BEM 536, pp. 1-5. The monthly PIL for a MA group of two (Claimant and her husband) living in Oakland County is ██████ per month. BEM 211, pp.5-6;RFT 200, p 1; RFT 240, p 1. Thus, if Claimant's net monthly income is in excess of the ██████, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$█████0. BEM 545, p 1.

At the hearing, the Department produced a MA budget showing how the deductible in Claimant's case was calculated. (Exhibit1, p.40). The Department testified that in calculating the total countable unearned income to determine Claimant's deductible, it relied on the monthly RSDI of ██████ for Claimant's husband, RSDI for Claimant of ██████, RSDI for Claimant's son of ██████ and RSDI for Claimant's daughter of ██████.

In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p.5.

After further review of the MA budget and based on the foregoing information, the Department did not properly calculate Claimant's total countable income for MA

purposes, as it considered income earned by Claimant's children and therefore, did not properly calculate Claimant's MA deductible.

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 did not act in accordance with Department policy when it calculated Claimant's deductible.

FAP

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.

Additionally, the gross amount of money earned from Retirement, Survivors, Disability Insurance (RSDI) is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2013), pp. 28.

At the hearing, the FAP EDG Net Income Results Budget Summary was reviewed. (Exhibit 1, pp. 33-35). The Department concluded that Claimant had unearned income of [REDACTED] which came from RSDI benefits. Specifically, the Department stated that RSDI of [REDACTED] for Claimant's husband, RSDI for Claimant of [REDACTED], RSDI for Claimant's son of [REDACTED] and RSDI for Claimant's daughter of [REDACTED] was considered. Although Claimant confirmed that the amounts relied on by the Department were accurate, after further review, the Department improperly calculated Claimant's unearned income, as the total gross amount of RSDI does not equal [REDACTED] as the Department determined.

The budget shows that the Department properly applied the [REDACTED] standard deduction applicable to Claimant's confirmed group size of four and that the [REDACTED] standard heat and utility deduction available to all FAP recipients was properly applied. RFT 255 (October 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department determined that Claimant had housing costs of [REDACTED]9 which Claimant confirmed.

Additionally, because Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of [REDACTED]. BEM 554, p 1. Because Claimant's \$[REDACTED]0 is deducted from Claimant's husband's monthly RSDI benefit, the Department properly determined that the medical deduction in this case was [REDACTED]0.

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 because of the errors in the calculation of Claimant's unearned income, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's MA and FAP decisions are REVERSED.

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. Recalculate Claimant's FAP budget for November 1, 2013, ongoing;
2. Recalculate Claimant's MA deductible for November 1, 2013, ongoing;
3. Issue supplements to Claimant for any FAP and MA benefits she was entitled to receive but did not effective November 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: November 26, 2013

Date Mailed: November 26, 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.

2014-5685/ZB

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/tm

cc:

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