

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

IN THE MATTER OF:

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

Reg. No.: 2014 13469
Issue No.: 2007; 3008
Case No.: ██████████
Hearing Date: December 16, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included ██████████, ES, and ██████████, FIM.

ISSUE

Did the Department properly calculate and reduce the Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly provide Medical Assistance (MA) coverage for Claimant subject to a 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 MA and FAP benefits. As a result of a redetermination the Department recalculated the Claimant's FAP benefits and imposed a deductible of \$252 per month.
2. On October 30, 2013, the Department sent Claimant a Notice of Case Action informing Claimant that she was entitled to FAP benefits of \$263 per month.

3. The October 30, 2013 Notice of Case Action also changed the Claimant's Medical Assistance and imposed a deductible amount of \$252.
4. The Claimant provided pay stubs to the Department for the month of September 2013 and the Claimant also receives unearned income of \$541 received by her child as SSA death benefits due to the death of her father. The Claimant's Food Assistance Group consists of the Claimant, her spouse and child.
5. When calculating the Group 2 spend down the Department used \$1233 in income and a pro rate divisor of 4.9.
6. The Department when calculating the Claimant's FAP benefits used the earned and unearned income received by the FAP group which consisted of 3 members.
7. On November 12, 2013, Claimant requested a hearing contesting the Department's action.

CONCLUSIONS OF LAW

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

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.

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.

FAP Benefits

At the hearing, the Department produced the budget used to establish the food assistance allotment for October 31, 2013 ongoing. The food assistance budget was changed due to a redetermination and was based on the last thirty days' pay stubs to determine current earned income and reported unearned income received by the Claimant's daughter. The FAP budget was reviewed and it was determined that the Claimant's gross income as calculated was correct and was confirmed by the Claimant. The Shelter allowance was also reviewed and it was determined that the excess shelter amount of \$478 was the maximum limit for this deduction. Based upon these calculations and confirmed information, the FAP budget as presented is determined to

be correct and the benefit amount of \$263 is correct. Exhibit 4, RFT 255; BEM 554; BEM 556.

MA Coverage

Also at issue was the calculation of the \$252 monthly deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (July 2013), p. 1; BEM 135 (July 2013), p. 3; BEM 544 (July 2013), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA fiscal group size of two (Claimant and her husband) living in Wayne County is \$500. RFT 200 (2007), p. 1; RFT 240, p. 1. Thus, if Claimant's net income is in excess of \$500, she and her spouse may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly income exceeds \$500. BEM 545 (), p. 2.

The Department testified that, based on Claimant's employment income, Claimant and her spouse were eligible for Group 2 Caretaker (G2C) coverage with a monthly \$252 deductible. The Department presented a G2 FIP-related MA budget showing the calculation of Claimant's net income and deductible. Exhibit 5. In calculating Claimant's employment income, the Department relied on the income Claimant reported with the redetermination and the last 30 days of check stubs for September 13 and concluded that Claimant had income of \$1233. The department added the pay stub income up, divided by the number of pay stubs (3), and multiplied the average by 2 to determine monthly income. ($\$513 + \$634 + \$702 = \$1842 \div 3 = 616 \times 2 = \1233)

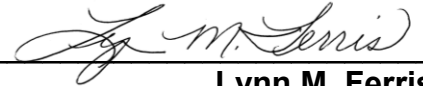
In calculating Claimant's total net income for MA purposes, the Department must deduct \$90 from the countable earnings of each fiscal group member with earnings. BEM 536 (July 2013), p. 1. This would bring Claimant's total net income to \$1143. The Department also correctly deducted the Claimant's child support payment in the amount of \$194.91 monthly which reduced the income to \$948. The Department correctly used a pro rate divisor of 4.9 based upon the Claimant's spouse and child being part of the group. Based on this net income and in consideration of Claimant's household consisting of Claimant, her spouse and one minor child, the Department calculated Claimant's pro rata share of her income as \$559 in accordance with Department policy and the couple's share of each other's income as \$193. BEM 536, p. 4. Claimant's, and her spouse's, share of the group's net income is \$752. See BEM 536, pp. 6-7. Claimant did not present any evidence showing that she was eligible for any further deductions to this income. See BEM 544, p. 1. Because \$752 exceeds the \$500 PIL by \$252, the Department acted in accordance with Department policy when it concluded that Claimant and his wife are eligible for MA coverage subject to a \$252 monthly deductible.

Therefore based upon the evidence presented the imposition of the \$252 spend down deductible as presented is correct.

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 did act properly when it calculated and reduced the Claimant's FAP benefits and determined the deductible amount under Claimant's Group 2 MA program.

Accordingly, the Department's decision is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 19, 2013

Date Mailed: December 19, 2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

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