

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013 14744
Issue No.: 2026,3003
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County: Oakland (03)

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 February 6, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly calculate the Claimant's Food Assistance ?
Did the Department properly calculate the claimant's Medical Deductible amount?
Did the Department properly determine the Claimant's gross income to be \$1592?
Did the Department properly close the Claimant's Medicare Savings 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. After a redetermination review the Department issued a Notice of Case Action dated 11/30/12 which reduced the Claimant's Food Assistance (FAP), increased the Claimant's Medical Deductible amount and closed the Claimant's Medicare Savings Program case. The changes were due in part to the increase in RSDI received by the Claimant as of December 1, 2012.
2. The Claimant currently receives RSDI in the amount of \$1592. \$104.90 is deducted for the Medicare Part B premium paid by the Claimant.

3. The Claimant's rent is \$200 and was incorrectly entered as \$248.50 when calculating the Claimant FAP benefits.
4. The Department also used the incorrect Medicare Part B premium amount when calculating the Claimant's FAP benefit Medical expense and Medical Deductible amount. The Department included \$110 instead of \$104.90.
5. The Claimant requested a hearing on 12/4/12 protesting the accuracy of the Department's actions.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

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

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 ACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of

1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, during the hearing it was determined that errors were made in the calculation of the Food Assistance benefits which included including \$110 as the Medicaid Part B premium, the premium paid is \$104.90 and thus the Department must recompute the current FAP budget to include the correct premium amount. Likewise the SSI Medicaid Income Budget for determining the medical deductible also included the wrong Medicaid Part B premium of \$110 and must be corrected.

The Department also included a shelter expense for rent paid by the Claimant of \$248 instead of \$200 when computing the current FAP budget. Because the rent amount was entered in error the excess shelter calculation must also be corrected. Exhibit 9.

It is also determined that the Claimant's current gross income received from RSDI in the amount \$1592 for purposes of the Medicare Savings Plan exceeds the income limit of \$1257 and thus the Department correctly determined that the Claimant was no longer eligible to receive this benefit. Exhibit 6.

During the hearing the Claimant disputed the Department's use of the gross income amount of \$1592 because in essence Claimant argued he does not receive that amount because SSA deducts the Medicaid Part B premium of \$104.90 and thus his gross income is \$1487. Claimant is incorrect. The Department Policy which defines gross income is cited below and is the amount **before any deductions**. Policy provides the answer to determining what is included or considered gross income as follows:

Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives.

The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions.

Garnishment or Other Withholding

Gross income includes amounts withheld from income which are any of the following:

Voluntary.

To repay a debt.

To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

Income taxes.
Health or life insurance premiums.
Medicare premiums.
Union dues.
Loan payments.
Garnishments.
Court-ordered or voluntary child support payments.
BEM 500 pp. 3, (1/1/13)

All Types of Assistance

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions.

Refer to the specific sections in this item for policies regarding:

Railroad Retirement Board benefits.

Retirement, Survivors and Disability Insurance (RSDI).

U.S. Civil Service and Federal Employee Retirement System.

Count the gross benefit as unearned income.

Allowances in pension benefits for the Medicare Part B premiums are not considered a reimbursement and should be included in the amounts entered in the Bridges unearned income logical unit of work. BEM 503 pp20 (11/1/10)

All Types of Assistance

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers.

Bridges counts the gross benefit amount as unearned income. ID pp21.

Based upon the above cited policy references it is determined that the Claimant's gross income is \$1592 and the Department correctly calculated the gross income when calculating the Medical Deductible amount, the Medicaid Savings Program Budget which found the Claimant income exceeded the income limit , and the Food Assistance Budget. Exhibits 4, 6 and 8

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 determined (a) that the gross income amount for the Claimant was \$1592; and (b) that the Claimant was no longer eligible for the Medicaid Savings Program which paid his Medicare Part B premium.

did not act properly when it calculated the FAP benefits and Medical Deductible as the Department included an incorrect Medicare Part B premium amount and the shelter expense used was incorrect. .

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED with regards to its closure of the Medicaid Saving Program

REVERSED for the reasons stated on the record and this Decision with regard to its calculation of the medical deductible and FAP benefits.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall initiate recomputation of the Claimant's FAP benefits and shall include the correct rent amount of \$200 for shelter expense and the Medicare Part B premium of \$104.90 when computing the January 2013 FAP benefits.
2. The Department shall initiate recalculation of the Medical Deductible and shall make sure to include the correct Medicare Part B premium in the amount of \$404.90 if not already included in accordance with Department policy.



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

Date Signed: February 13, 2013

Date Mailed: February 13, 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

cc:

