

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-33210
Issue No.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Van Buren

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was conducted at the Van Buren County DHS office on April 25, 2013. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED] [REDACTED] and Family Independence Specialist [REDACTED] [REDACTED].

ISSUE

Whether the Department properly determined Claimant's Food Assistant Program (FAP) benefits and the Medicaid deductible amount?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. Claimant was an ongoing recipient of FAP and MA benefits.
2. On February 12, 2013, Claimant was sent a Notice of Case action informing Claimant that her Medicaid deductible was \$ [REDACTED] a month and her FAP benefits were approved for \$ [REDACTED] per month. (Exhibit 1)
3. Claimant submitted a request for hearing on February 28, 2013 disputing the amount of FAP benefits and the high Medicaid deductible.

CONCLUSIONS OF LAW

Department of Human Services (DHS) policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

FAP

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 1997 AACSR 400.3001-3015

In this case, Claimant did not dispute the amount of unearned income used in determining her FAP allotment. A review of the FAP Budget and Excess Shelter Budget showed Claimant's housing expenses were incorrect. Therefore, the department improperly determined Claimant's FAP benefits and is reversed.

MA-DEDUCTIBLE

The Medical Assistance (MA) program is established by 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 (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, or
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines).
BEM 545.

In this case, Claimant admits that her husband's income was correctly budgeted and therefore, she has excess income. In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protective basic maintenance level. Agency policy sets forth a method for determining the protective basic maintenance level by considering: (1) The protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services, if determining eligibility for clients in adult-care homes. The protected income level is the set amount for non-medical needs such as shelter, food, and incidental expenses. In all other situations, other than those involving long-term care, the appropriate income level must be taken from RFT 240. BEM Item 544 and 42 CFR 435.811-435.814. If the client's income exceeds the protected income level, the excess amount (MA deductible) must be used to pay medical expenses before Group 2 coverage can begin.

The deductible program is a process, which allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM Item 545; 42 CFR 435.831.

In this case, the department determined Claimant's net unearned income based upon Claimant's receipt of \$ [REDACTED] in gross unearned income in the month of March, 2013.

The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income, after being provided with the most beneficial unearned income deduction of \$ [REDACTED] was \$ [REDACTED]. Federal Regulations at 42 CFR 435.831 provide standards for the determination of the Medical Assistance monthly protected income levels. The department, in this case, is in compliance with the Reference Tables Manual, tables, charts and schedules, table 240-1. Table 240-1 indicates that Claimant's monthly protected income level for Claimant's fiscal group of two is \$ [REDACTED] leaving Claimant with \$ [REDACTED] in monthly excess income (\$ [REDACTED] - \$ [REDACTED]).

However, the SSI Related Medicaid budget prepared by the department indicates Claimant had \$ [REDACTED] in net income and \$ [REDACTED] in countable income. The department representatives were unable to explain how or why the \$ [REDACTED] went down to \$ [REDACTED]. In addition, the budget indicated Claimant's deductible is \$ [REDACTED] yet the Eligibility Summary for MA-G2S indicated Claimant's deductible is \$ [REDACTED]. Based on the discrepancies in the budget itself and between the budget and the Eligibility Summary, the department's Medical Assistance determination is incorrect.

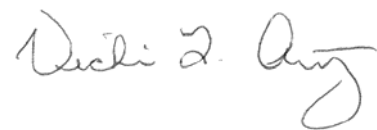
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department failed to properly determine Claimant's FAP benefits and Claimant's MA deductible.

Accordingly, the department's decision is hereby **REVERSED**.

The department SHALL redetermine Claimant's FAP benefits using the proper housing expense and redetermine her MA deductible to ascertain the correct amount.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 29, 2013

Date Mailed: April 30, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

VLA/las

cc:

