

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-48390
Issue Nos.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: June 24, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

1. Did the Department properly provide Claimant and her husband with Medical Assistance (MA) coverage with a monthly \$1,115 deductible?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On April 19, 2013, Claimant applied for MA and FAP benefits.
2. The Department approved Claimant's application, providing Claimant and her husband with MA coverage subject to a \$1,115 monthly deductible and with \$16 in monthly FAP benefits.
3. On May 22, 2013, Claimant filed a hearing request disputing the Department's action.

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), and Department of Human Services 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.

Claimant applied for MA and FAP on April 19, 2013. Although the Department did not provide a copy of the May 2, 2013, Notice of Case Action denying Claimant's application with the hearing packet, one was requested and provided during the hearing. The Notice showed that the Department approved Claimant's MA and FAP application, finding Claimant and her husband eligible for (i) MA coverage subject to a \$1,115 monthly deductible effective April 1, 2013, and (ii) monthly FAP benefits of \$16 effective May 1, 2013.

MA Deductible

The Department determined that Claimant and her husband were eligible for MA coverage with a monthly \$1,115 deductible. Clients are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 135 (January 1, 2011), p. 2; BEM 544 (August 1, 2008), p. 1; RFT 240 (July 1, 2007), p. 1. In this case, the monthly PIL for an MA group of two (Claimant and her husband) living in Macomb County is \$541 per month. RFT 200 (July 1, 2007), p. 1; RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly income exceeds the applicable PIL. BEM 545 (July 1, 2011), p. 2. Thus, if Claimant's group's net monthly income exceeds \$541, the group is eligible for MA coverage with a monthly deductible equal to the amount that the monthly net income exceeds \$541.

The SSI-Related MA budget provided during the hearing showed the manner in which the deductible in Claimant's case was calculated. Claimant's husband verified that he received gross monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$1,676. The Department properly subtracted the \$20 disregard to establish Claimant's total net income for MA purposes at \$1,656. BEM 530 (October 1, 2012), p. 1; BEM 541 (January 1, 2011), p. 3. Claimant was also eligible for a deduction from the calculation of her monthly deductible for any Medicare premiums paid by the medical group. BEM 544 (August 1, 2008), p. 1. Claimant's husband's SOLQ report, which shows his federal benefits, showed that he paid a \$104.90 monthly Part B Medicare premium. Because the Department did not consider this expense in the calculation of the group's deductible, the Department did not act in accordance with Department policy in calculating Claimant's monthly MA deductible. Claimant did not present the Department with any other medical expenses that qualified as need items under policy prior to the hearing date. See BEM 541; BEM 544.

FAP Benefits

The Department testified that Claimant was eligible for \$16 in monthly FAP benefits beginning May 1, 2013.

During the hearing, the Department produced a FAP budget showing the calculation of Claimant's FAP benefits for May 1, 2013. The budget showed that the Department properly used \$1,676 that Claimant's husband received in gross monthly RSDI benefits for the household's countable unearned income and applied the \$148 standard deduction available to Claimant's FAP group size of two. See BEM 503 (May 1, 2013), p. 21; RFT 255 (October 1, 2012), p. 1. Although Claimant was not eligible for a child support or dependent care deduction, because her husband is a Senior/Disabled/Veteran (SDV) member of her FAP group, the group is eligible for a deduction for medical expenses he had incurred in excess of \$35. BEM 554 (October 1, 2012), p. 1. Although Claimant's husband verified that no documentation of medical expenses had been submitted to the Department, the SOLQ shows that Claimant's husband pays \$104.90 monthly for his Part B Medicare premium. Because the Department was aware of this expense and did not provide Claimant with a medical deduction for this expense, the Department did not act in accordance with Department policy in calculating Claimant's monthly FAP benefits.

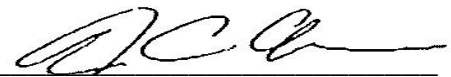
DECISION AND ORDER

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 not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits and MA deductible.

Accordingly, for the reasons stated on the record and above, the Department's decision is REVERSED.

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

1. Begin recalculating Claimant's FAP benefits for April 19, 2013 ongoing;
2. Begin recalculating Claimant's MA deductible for April 1, 2013, ongoing;
3. Issue supplements for monthly FAP benefits Claimant is eligible to receive but did not, if any, from April 19, 2013, ongoing;
4. Provide MA coverage Claimant and her husband are eligible to receive from April 1, 2013, ongoing;
5. Notify Claimant in writing of its decision;
6. Take each of the preceding steps in accordance with Department policy and consistent with this Hearing Decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 25, 2013

Date Mailed: June 25, 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 affect 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

2013-48390/ACE

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

