

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201349263
Issue No.: 3000; 2026
Case No.: [REDACTED]
Hearing Date: July 25, 2013
County: Macomb 36

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 July 25, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], her Authorized Hearing Representative (AHR) [REDACTED] and the Department's [REDACTED], [REDACTED]. Participants on behalf of Department of Human Services (Department) included Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly determine the Claimant's monthly deductible on her MA 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. The Claimant is an ongoing recipient of FAP and MA benefits.
2. As a result of a February review, the Claimant submitted verification of monthly gross income of \$ [REDACTED]. The Claimant reported that she also receives assistance paying her [REDACTED] and [REDACTED] from a [REDACTED] [REDACTED] outside of the household. This assistance totaled \$ [REDACTED] for the month of May of 2013.
3. On March 21, 2013, the Department sent the Claimant a DHS-1605, Notice of Case Action informing the Claimant that she and her [REDACTED] had a deductible of \$ [REDACTED] as of March 1, 2013.

4. On May 20, 2013, the Department received the Claimant's written hearing request protesting the determination of her deductible.

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 AACS, 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.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, 1999 AC, R 400.901 through Rule 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). In this case, the Claimant returned the DHS-18 from the DHS-1605, Notice of Case Action informing her that her FAP allotment had actually increased. The ES at the hearing testified that though the FAP allotment did actually increase, the Claimant was protesting that it is still not as high as it was two years ago when it then started to decline. The Claimant was informed that if she had an issue with the FAP benefits being reduced in the past, then she needed to request a hearing on the reduction then. As her FAP allotment actually increased in this case, the Administrative Law Judge has no jurisdiction to hear the issue, as her FAP case suffered no negative action. As such, the request for hearing on the FAP issue is hereby DISMISSED.

In this case, The Department's hearing summary indicates that both the earned and the unearned income were budgeted accordingly. The Administrative Law Judge cannot understand how that could be when compared with the budget in evidence which results in a total net income of \$ [REDACTED] and a remaining deductible of \$ [REDACTED]. This budget is for the time period going forward from May 1, 2013. The Claimant returned the hearing request portion of the DHS-1605, Notice of Case Action sent to her informing her of her FAP increase. She also wrote a letter protesting the amount of her deductible and with this letter she included a DHS-1605, Notice of Case Action sent to her on March 21, 2013 informing her of deductibles for her and her [REDACTED] for the months of October, 2012, January 2013, February 2013 and March 2013 ongoing. There is no DHS-1605, Notice of Case Action in evidence stemming from the May 1, 2013 budget. Therefore, the Administrative Law Judge determines that the issue the Claimant is protesting is the determination of her MA deductible as is established by the DHS-1605, Notice of Case Action sent to her on March 21, 2013. There is no budget in evidence to support those determinations and as such, the Administrative Law Judge concludes that the evidence is insufficient to establish that the Department was acting in accordance with departmental policy when determining the Claimant's MA deductible as established by the DHS-1605, Notice of Case Action sent to the Claimant on March 21, 2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department did not act properly when determining the Claimant's MA deductible as established by DHS-1605, Notice of Case Action sent to her on March 21, 2013.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED **REVERSED**.

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

1. Initiate action to re-determine the Claimant's eligibility for and/or deductible for MA back to October 1, 2012, and
2. Issue the Claimant any supplement she may thereafter be due.

/s/

Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/29/13

Date Mailed: 7/30/13

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.

201349263/SEH

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

SEH/tb

cc:

