

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 2013-51066
Issue No.: 2026; 3003
Case No.: ██████████
Hearing Date: July 1, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective June 1, 2013, ongoing?

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible effective July 1, 2013, ongoing?

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 an unspecified date, Claimant submitted to the Department a completed redetermination.
2. On May 21, 2013, the Department sent Claimant a Notice of Case Action notifying him that his FAP benefits were approved in the amount of \$91 effective June 1, 2013, ongoing. Exhibit 1.
3. On May 21, 2013, the Notice of Case Action also notified him that, effective July 1, 2013, he would receive MA coverage with a monthly \$1,167 deductible. Exhibit 1.

4. On June 3, 2013, Claimant filed a hearing request, protesting his FAP and MA benefits. Exhibit 1.

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

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

At the hearing, the FAP budget for the benefit period of June 2013 was reviewed. See Exhibit 1. It was not disputed that the certified group size was four. The Department calculated Claimant's earned gross income to be \$2,876. Claimant did not dispute this amount. Because the Department properly calculated the total gross countable earned income to be \$2,876, the Department then reduced that amount by a 20 percent earned income deduction. BEM 550 (February 2012), p. 1. Twenty percent of \$2,876 is \$576, which results in a post earned income of \$2,300. The Department then applied the \$159 standard deduction applicable to Claimant's group size of four. BEM 550, p. 1; RFT 255 (October 2012), p 1. This results in an adjusted gross income of \$2,141 (\$2,300 post earned income minus \$159 standard deduction).

Claimant then testified that no groups members are senior/disabled/disabled veteran (SDV). For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. BEM 554 (October 2012), p. 1; RFT 255, p. 1. RFT 255 indicates that the standard shelter maximum for non-SDV members is \$469. RFT 255, p. 1. It should be noted that a shelter budget was not provided at the hearing; however, the Notice of Case Action dated May 21, 2013, did contain the shelter information. See Exhibit 1.

The Department testified that Claimant's monthly rent is \$712.87, which Claimant did not dispute. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 11-12. The utility standard of \$575 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$575 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,287.87. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,141 adjusted gross income. Fifty percent of the adjusted gross income is \$1,070.50. Thus, when the Department subtracts the total shelter amount from fifty percent of the gross income (\$1,287.87 shelter income minus \$1,070.50 adjusted gross income), this amount is \$217.37. The Department calculated Claimant's excess shelter deduction to be \$218. However, this difference is less than a dollar which is harmless error. Thus, Claimant is entitled to the standard shelter maximum of \$218 for non-SDV members. RFT 255, p. 1.

Finally, the Department subtracts the adjusted gross income from the shelter deduction, which results in a net income of \$1,923. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$91, the same amount calculated by the Department. RFT 260 (December 2012), p. 17.

At the hearing, Claimant testified that he has additional expenses which should have been considered in the budget. Claimant testified that he spends \$360 a month in gas to travel to his work. Claimant testified that he is not self-employed and works for a company. Moreover, Claimant testified that he is the only person earning income in his group. Claimant testified that he put in his redetermination that he spends approximately \$360 in gas a month. It should be noted that the Department did not provide the redetermination at the hearing.

Based on the foregoing information and evidence, the Department properly calculated Claimant's FAP Budget in accordance with Department policy for the effective benefit period of June 1, 2013, ongoing. A review of Department policy found no expense deduction for gas mileage and/or fuel expenses unless Claimant was self-employed. See BEM 502 (October 2012), p. 2.

MA benefits

On May 21, 2013, the Notice of Case Action also notified him that, effective July 1, 2013, he would receive MA coverage with a monthly \$1,167 deductible. Exhibit 1. Because of the husband's earned income, the Department determined that, effective July 1, 2013, Claimant and his spouse were eligible for MA coverage under the Group 2 Caretaker (G2C) program, each with a \$1,167 monthly deductible. The Department provided a copy of Claimant's MA budget showing the calculation of Claimant's deductible for July 2013. Exhibit 1.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (February 2013), p. 28. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 28. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 28. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 30.

At the hearing, the Department was unable to provide evidence on how the Department calculated the spouse's prorated income and/or the spouse's share of spouse's own income on the MA budget. See Exhibit 1. The Department was unable to explain or provide evidence on how it determined Claimant's MA deductible.

Based on the foregoing evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy on how it processed Claimant's MA eligibility and deductible effective July 1, 2013, ongoing.

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 (i) properly calculated the FAP budget effective June 1, 2013, ongoing and (ii) improperly calculated Claimant's MA budget effective July 1, 2013, ongoing.

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

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

1. Initiate determination of Claimant's MA eligibility effective July 1, 2013, ongoing;

2. Begin recalculating the MA budget for July 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from July 1, 2013, ongoing; and
4. Notify Claimant of its MA decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2013

Date Mailed: July 9, 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,
 - 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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]