

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51521
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: August 5, 2013
County: Oakland (63-02)

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 August 5, 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

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. Claimant was an ongoing recipient of FAP benefits.
2. On May 29, 2013, Claimant filed a request for hearing expressing concerns regarding the Department's calculation of his \$16 in monthly FAP benefits, particularly regarding whether his medical expenses were considered in the calculation of his FAP benefits.

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.

Additionally, Claimant requested a hearing disputing the Department's calculation of his FAP benefits, specifically concerning whether the Department properly considered his medical expenses in calculating his benefits. Because Claimant is a Senior/Disabled/Veteran (SDV) member of his FAP group, he is eligible for a deduction in his FAP budget for verified medical expenses he incurred in excess of \$35. BEM 554 (October 1, 2012), p. 1.

A FAP group is not required to but may voluntarily report medical expenses during the benefit period and the Department is required to process the changes during the benefit period only if they are voluntarily reported and verified during the benefit period or reported by another source and the Department has sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554 (October 2012), pp. 6-7. However, the medical bill may not be overdue, which means that (i) the bill is currently incurred (for example, in the same month or ongoing) or (ii) the bill is currently billed (the client received the bill for the first time for a medical expense provided earlier and the bill is not overdue) or (iii) the client made a payment arrangement before the medical bill became overdue. BEM 554, p. 9. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3.

The evidence at the hearing showed that Claimant's FAP certification period was October 1, 2012, through September 30, 2013. A hearing is only available with respect to a client's current level of FAP benefits within the benefit period. BAM 600, p. 4. Therefore, only Claimant's FAP benefits for the period between October 2012 and May 2013, when Claimant requested a hearing, are considered.

With its hearing packet, the Department included the medical expenses that Claimant submitted to the Department on May 1, 2013; April 9, 2013; March 4, 2013; February 19, 2013; November 5, 2012; and October 9, 2012. A review of this documentation shows the following:

- There were no medical expenses submitted for May 2013.
- The documents submitted on April 13, 2013, show the following:

- An invoice of \$25.27 dated February 21, 2013, was not currently incurred or billed when it was submitted to the Department.
- The invoice dated March 12, 2013, for \$77.26, was previously billed on February 6, 2013, and, therefore, was not currently billed and would not be considered by the Department in Claimant's March 2013 FAP budget.
- The invoices dated March 25, 2013, and March 11, 2013, were final bills and, therefore, not currently incurred or billed. As such, they could not be considered in Claimant's FAP budget.
- The documents submitted on March 4, 2013, show the following:
 - The Medicare Summary Notice dated February 19, 2013, was not a currently incurred or billed invoice.
 - The February 11, 2013, invoice for \$49.81 shows that it was an outstanding balance and, therefore, not currently billed or incurred.
- The documents submitted on February 19, 2013, show the following:
 - **The invoice dated February 19, 2013, for \$77.26, was currently billed and should have been considered by the Department in Claimant's February 2013 FAP budget.**
 - The invoice dated January 25, 2013, for \$1,156 was previously submitted by Claimant to the Department on October 9, 2012, and, therefore, was not currently billed or incurred.
 - **The invoice dated January 14, 2013, for \$49.81 and the invoice dated January 28, 2013 for \$37.78 showed that the amounts due were current. Therefore, these amounts should have been considered for Claimant's January 2013 FAP budget.**
 - The invoice dated December 10, 2012, for \$38.23 showed that it was overdue and, therefore, would not be considered in Claimant's FAP budget calculation.
- The documents submitted on November 5, 2012, show the following:
 - The invoice dated October 26, 2012, for \$1,156 was previously submitted by Claimant to the Department on October 9, 2012, and, therefore, was not currently billed or incurred.
 - The invoice dated May 10, 2012, for \$88.97 showed that it was overdue and, therefore, would not be considered by the Department in the calculation of Claimant's FAP budget.
- The documents submitted on October 9, 2012, and October 19, 2012, show the following:
 - The invoice dated October 8, 2012, for \$38.23 was overdue.

- The invoice dated September 28, 2012, for \$1,156 applies to the prior certification period not under consideration in this Hearing Decision.
- The September 12, 2012, invoice for \$88.97 was overdue.

The highlighted items show medical expenses that were eligible to be considered in Claimant's FAP budget. The January 2013 and February 2013 FAP budgets do not show that the expenses indicated above were considered as medical expense deductions. BEM 554 provides that FAP groups may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period, with the expense considered in the first benefit month the change can affect. BEM 554 (October 1, 2012), p. 7. Further, the March 2013 FAP budget does not include any medical deduction even though Claimant was eligible for deduction for his Part B Medicare premium in excess of \$35. Therefore, the Department did not act in accordance with Department policy in calculating Claimant's FAP budgets for January 2013, February 2013, and March 2013. Claimant is eligible for a FAP supplement for any FAP benefits he was underissued by the Department's miscalculation of his medical expense deduction, if any. BAM 406 (October 2010), pp. 2-3.

The remaining budgets show medical expenses of \$70 or \$83 and, therefore, take into consideration, at a minimum, Claimant's \$105 Medicare Part B premium in excess of \$35. Because no other medical expenses were eligible medical deductions, the Department acted in accordance with Department policy in calculating Claimant's medical deduction for these remaining months. It is noted that a review of Claimant's FAP budget for May 2013, based on Claimant's verified information and a medical deduction of \$85, shows that the Department calculated Claimant's FAP net income of \$654 in accordance with Department policy. BEM 556 (July 2011). Based on a net income of \$654, Claimant was eligible for monthly FAP benefits of \$16. RFT 260 (December 2012), p. 6. Claimant's net income for October 2012 through December 2012 and for April 2013, which ranged from \$627 to \$657, also results in monthly FAP benefits of \$16 for those months. RFT 260, p. 6.

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 satisfy its burden of showing that it acted in accordance with Department policy in calculating Claimant's FAP benefits for January 2013, February 2013, and March 2013.

Accordingly, 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 January 2013, February 2013, and March 2013 in accordance with Department policy and consistent with this Hearing Decision;

2. Issue supplements to Claimant for any FAP benefits he was eligible to receive but did not from January 1, 2013, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: August 12, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

2013-51521/ACE

cc:

