

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 2013-53304
Issue Nos.: 2026, 3019
Case No.: ██████████
Hearing Date: July 17, 2013
County: Oakland (63-3)

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 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Manager.

ISSUES

1. Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective July 1, 2013, ongoing, due to net income exceeding limits?
2. 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. Claimant was an ongoing recipient of FAP and MA benefits.
2. On April 15, 2013, the Department sent Claimant a Redetermination, which was due back by May 2, 2013. Exhibit 1.
3. On May 6, 2013, Claimant submitted the redetermination packet. Exhibit 1.

4. On June 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective July 1, 2013, ongoing, due to net income exceeding limits. Exhibit 1.
5. On June 6, 2013, the Notice of Case Action also notified Claimant that she and her husband would receive Group 2 Caretaker (G2C) MA coverage with a monthly \$894 deductible effective July 1, 2013, ongoing. Exhibit 1.
6. On June 12, 2013, Claimant filed a hearing request, protesting the 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).

FAP benefits

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.

In this case, Claimant was an ongoing recipient of FAP benefits. On April 15, 2013, the Department sent Claimant a Redetermination, which was due back by May 2, 2013. Exhibit 1. On May 6, 2013, Claimant submitted the redetermination packet. Exhibit 1. On June 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits would close effective July 1, 2013, ongoing, due to net income exceeding limits. Exhibit 1.

A non-categorically eligible, non- Senior/Disabled/Veteran (SDV) FAP group must have income below the gross and net income limits. BEM 550 (February 2012), p. 1. A non-categorically eligible SDV FAP group must have income below the net income limits. BEM 550, p. 1. The Department uses only available, countable income to determine eligibility. BEM 550, p. 1. The Department always calculates income on a calendar month basis to determine eligibility and benefit amounts. BEM 550, p. 1. The Department used RFT 250, Column B Monthly Net Income Limit, which indicates the net income limit for a group size of four is \$1,921. RFT 250 (October 2012), p. 1.

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 Department testified Claimant's net income of \$2,388 exceeded the net income limit of \$1,921 for a group size of four. See Exhibit 1; RFT 250, p. 1. Thus, the Department testified that Claimant's FAP benefits were closed for exceeding the net income limits.

Moreover, the FAP budget for the benefit period of July 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 \$3,480. The Department calculated the earned gross income by adding Claimant's spouse's and daughter's incomes together. The Department testified that it obtained Claimant's spouse's and daughter's incomes from the Work First number. The Department took Claimant's spouse's biweekly income in May 2013 and added those two amounts together, which resulted in a monthly income of \$2,131.74 (\$1,813.96 plus \$317.78). The Department then divided this amount by two, to obtain an average biweekly pay, which resulted in the amount of \$1,065.87 (\$2,131.74 divided by 2). The Department would then convert Claimant's spouse's biweekly amount to a standard monthly amount. If the Department takes \$1,065.87 and multiplies that amount by 2.15, that would result in a standard monthly amount of \$2,291.62 (\$1,065.87 times 2.15). See BEM 505, p. 6.

The Department then used the same process above to calculate Claimant's daughter's standard monthly amount. The Department used Claimant's daughter's May 2013 income and added those two amount together, which resulted in a monthly income of \$1,106 (\$513 plus \$593). The Department then divided this amount by two, to obtain an average biweekly pay, which resulted in the amount of \$553 (\$553 divided by 2). The Department would then convert Claimant's spouse's biweekly amount to a standard monthly amount. If the Department takes \$553 and multiplies that amount by 2.15, that would result in a standard monthly amount of \$1,188.95 (\$553 times 2.15). See BEM 505, p. 6.

Then, the Department adds Claimant's spouse's income of \$2,291.62 to the daughter's income of \$1,188.95, which results in a total gross earned income of \$3,480.57. This is the same amount that is reflected in the July 2013 FAP budget. See Exhibit 1.

At the hearing, Claimant is disputing the amounts the Department used above. Claimant's spouse testified that the May 2013 payments were not normal because he was working overtime. Additionally, Claimant testified that her spouse's payments do fluctuate. Moreover, Claimant testified that her daughter only makes approximately \$176 weekly.

The Department uses past income to prospect income for the future unless changes are expected. BEM 505, p. 4. The Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 4. However, the Department can use income from the past 60 or 90 days for fluctuating or irregular income, if the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, p. 5. The Department will compute the average monthly income (and convert weekly and every other week amounts) based on the amounts and the number of months entered. BEM 505, p. 5.

Additionally, if the Department is using income from the past 30 days, it should discard a pay from the past 30 days if it is unusual and does not reflect the normal. BEM 505, p. 4.

Moreover, before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between her or his statements and information from another source. BAM 130 (May 2012), p. 6. The Department should send the Claimant a DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, pp. 2-3.

A review of Claimant's spouse's income that the Department obtained does indicate that Claimant's spouse has fluctuating income. See Exhibit 1. Claimant's spouse's gross earnings for the month of May 2013 appear to be unusual and not reflect his normal income. BEM 505, p. 4. Additionally, Claimant's Redetermination indicated that Claimant's spouse earns only \$317.60 bi-weekly and only works 16 hours a week. See Exhibit 1. The Redetermination also indicated that Claimant's daughter earns \$176 biweekly and works 22 hours per week. See Exhibit 1. Claimant did clarify, though, at the hearing that the \$176 should have been her weekly earnings.

Based on the foregoing information and evidence, the Department improperly closed Claimant's FAP benefits effective July 1, 2013. First, a review of the documentation presented does show that Claimant's spouse's income does fluctuate. The Department should have calculated Claimant's spouse's standard monthly amount using his past 60 or 90 days for fluctuating or irregular income. BEM 505, p. 5. Second, Claimant's Redetermination indicates different gross amounts as compared to the Department's evidence presented. This indicates that a discrepancy exists as to the Claimant's statements and information from another source. Thus, the Department should have requested verification of Claimant's spouse's and daughter's income. BAM 130, pp. 2, 3, and 6.

MA benefits

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 was an ongoing recipient of MA benefits. On June 6, 2013, the Notice of Case Action notified Claimant that she and her husband would receive G2C MA coverage with a monthly \$894 deductible effective July 1, 2013, ongoing. Exhibit 1.

Based on the above FAP analysis, the Department will have to request verification and recalculate Claimant's earned income. Thus, this will also affect Claimant's deductible amount as the income will change.

Therefore, the Department improperly processed Claimant's MA eligibility and deductible effective July 1, 2013, ongoing.

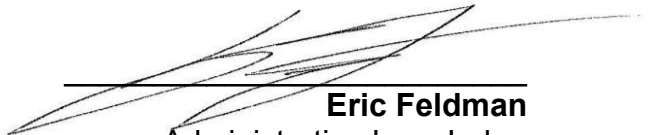
DECISION AND ORDER

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) improperly closed Claimant's FAP benefits effective July 1, 2013, ongoing, and (ii) improperly processed Claimant's MA eligibility and deductible effective July 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED 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. Reinstate Claimant's FAP case as of July 1, 2013, ongoing;
2. Initiate verification of Claimant's spouse and daughter's income;
3. Begin recalculating the FAP and MA budget for July 1, 2013, ongoing, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP and MA benefits she was eligible to receive but did not from July 1, 2013, ongoing; and
5. Notify Claimant in writing of its FAP and MA decision in accordance with Department policy.



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

Date Signed: July 26, 2013

Date Mailed: July 26, 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/pf

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