

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201356627
Issue No.: 2018, 3002
Case No.: [REDACTED]
Hearing Date: August 13, 2013
County: Bay

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 13, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment?

Did the Department properly determine Claimant's Medical Assistance (MA) or "Medicaid" eligibility?

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 active for FAP benefits with a monthly allotment of \$200.00 effective October 1, 2012.
2. Claimant was active for MA-AD Care benefits effective September 1, 2012.
3. Claimant was receiving Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$734.00 per month beginning on March 1, 2013 and Survivor's Benefits in the amount of \$278.00 per month effective August 1, 2012.

4. On April 9, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which: (1) approved FAP benefits in the amount of \$185.00 effective April 1, 2013; and (2) approved MA-Group 2 Aged, Blind, Disabled with a deductible effective May 1, 2013.
5. On May 24, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) requesting current bank statements (within the last 30 days) and records pertaining to assets. The due date was June 3, 2013.
6. On May 29, 2013, the Department received Claimant's bank statements along with a request for hearing challenging the calculation of her FAP and MA benefits.
7. On July 2, 2013, Claimant had an Administrative Hearing before Administrative Law Judge (ALJ) Adam Purnell. During the hearing, the Department asserted that it had properly calculated Claimant's FAP and MA, but the Department failed to include budgets in the record. The ALJ reversed the Department due to lack of evidence.
8. On July 8, 2013, Claimant requested a hearing concerning the MA deductible and the FAP allotment amount.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).

Claimant's request for a hearing concerns the Food Assistance Program and the Medical Assistance Program. The policies that govern both programs are summarized below.

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 1999 AC, Rule 400.3001 through Rule 400.3015.

For FAP, a non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

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).

¹ Claimant also requested a hearing concerning the "Adult Services Chore Provision;" however, this Administrative Law Judge does not have jurisdiction over this program as it is a Department of Community Health (DCH) program. Based on notations on the request for hearing, Claimant's Adult Services Chore Provision DCH hearing has been scheduled for September 4, 2013.

The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Policy defines a “deductible case” as an active MA case with no ongoing MA eligibility or coverage. See Bridges Program Glossary (BPG) at p. 11. The case meets all other eligibility requirements but income exceeds allowable limits. BPG, p. 11.

The fiscal group's monthly excess income is called a deductible amount. BEM 545. Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545. The Department will open active deductible cases on their computer system known as “Bridges” without ongoing Group 2 MA coverage as long as the fiscal group has excess income and at least one fiscal group member meets all other Group 2 MA eligibility factors. BEM 545.

Here, the Department representative who attended the hearing contends that he processed Claimant’s March 21, 2013 redetermination and discovered that Claimant’s previous worker had incorrectly budgeted Claimant’s income. According to the Department representative, the Department had failed to include the fact that Claimant had been receiving \$278.00 per month from the Social Security Administration for “Survivors Benefits.” According to the Department, Claimant had been receiving these benefits since August 1, 2012. The Department contends that this newly discovered unearned income (the \$278.00 in Survivors Benefits) resulted in the reduction of Claimant’s FAP from \$200.00 to \$185.00 and the new \$601.00 MA deductible. Claimant, on the other hand, was very animated in her dissent. Essentially, Claimant argued that the Department was aware of the \$278.00 of unearned income all along and that she has the documentation to prove it. Claimant also repeatedly made reference to events that took place in January 2013, but those events, even if true, are not relevant to these proceedings.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep’t of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep’t of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This ALJ has carefully considered and weighed the testimony and other evidence in the record. The salient issue concerns whether the Department properly calculated Claimant’s FAP allotment and MA deductible amount. This ALJ has reviewed the Department’s documentation, including the SOLQs, FAP budgets for October 1, 2012 through March 31, 2013, FAP budgets for July 1, 2013, Medicaid Budgets for September 1, 2012 through April 30, 2013, Medicaid Budget for July 1, 2013 and the

Bridges Case Comments-Summary. This ALJ has also considered Claimant's exhibits which included a copy of the Bridges Unearned Income Budget-Summary which shows that the Department budgeted the \$278.00 since January 1, 2013 and copies of the SOLQs which confirm receipt of the RSDI and Survivor's benefits. Claimant's argument that the Department was aware of the \$278.00 does not contradict the Department representative's testimony that the previous caseworker failed to include all of Claimant's unearned income in the previous budgets.

This ALJ finds that the Department worker's testimony is more credible than Claimant's and the record evidence supports that the Department incorrectly budgeted Claimant's FAP and MA because it did not account for an extra \$278.00 of unearned income from the SSA in the form of Survivor's Benefits. When the Department finally discovered the error, that they had used only \$721.00 of monthly unearned income and rebudgeted Claimant's FAP and MA which included the \$278.00 of Survivor's Benefits, Claimant's correct monthly income was \$1,012.00. According to the record, the Department correctly calculated Claimant's monthly FAP reduction from \$200.00 to \$185.00 and the \$601.00 MA deductible was properly calculated.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly determined Claimant's FAP reduction and MA deductible amount.

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 act properly.

Accordingly, the Department's FAP and MA decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 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

CAP/aca

cc:

