



## **CONCLUSIONS OF LAW**

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

### **MA**

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 requested a hearing disputing the Department's denial of his wife's application for MA. At the hearing, the Department testified that Claimant's wife's application was denied because she does not meet the criteria for eligibility for MA under any of the programs. Claimant's wife is not eligible for the Adult Medical Program because at the time of her application, the program was closed to new enrollments. BEM 640 (October 2012). Additionally, because Claimant's wife is not under 21, pregnant or a caretaker of a minor child, over 65 years of age, blind or disabled, she does not qualify for MA under any of the other MA programs available. BEM 211 (November 2012); BEM 110 (June 2013); BEM 125 (October 2010); BEM 126 (October 2010); BEM 132 (June 2013); BEM 135 (January 2011); BEM 163 (October 2010); BEM 166 (October 2010). Therefore, the Department did act in accordance with Department policy when it denied Claimant's wife's application for MA.

Additionally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105 (October 2010), p 1; BEM 166 (October 2010), pp 1-2; BEM 544 (August 2008), p 1; RFT 240 (July 2007), p 1. The monthly PIL for an MA group of two (Claimant and his wife) living in Wayne County is \$500.00 per month. BEM 211 (November 2012), pp.5-6; RFT 200 (July 2007), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income is in excess of the \$500.00, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$500.00. BEM 545 (July 2011), p 1.

In this case, the Department sent Claimant a Notice of Case Action informing him that effective July 1, 2013, he was approved for MA under the Group 2 Aged, Blind, Disabled MA program with a deductible of \$935.00. (Exhibit 1). Claimant requested a hearing disputing the calculation of this deductible. At the hearing, the Department testified and Claimant confirmed that he receives \$1,455.00 in Retirement, Survivors, Disability Insurance (RSDI) benefits monthly. The Department properly subtracted the \$20 disregard to establish Claimant's total net income for MA purposes at \$1,435.00. BEM 530 (October 2012), p 1; BEM 541 (January 2011), p 3. Claimant had not

presented the Department with any other medical expenses he incurred that qualified as need items under policy. See BEM 541; BEM 544.

Because Claimant's net income of \$1,435.00 for MA purposes exceeds the monthly protected income level of \$500.00 by \$935.00, the Department calculated Claimant's monthly \$935.00 MA deductible in accordance with Department policy.

## **FAP**

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 the present case, on June 28, 2013, the Department sent Claimant a Notice of Case Action informing him that he was approved for FAP benefits in the amount of \$16.00 effective July 1, 2013. (Exhibit 1). Claimant requested a hearing to dispute the Department's calculation of his FAP benefits.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505), p 2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 6-7.

At the hearing, the budget summary from the Notice of Case Action was reviewed. (Exhibit 1). The Department concluded that Claimant had earned income of \$1,426.00. The Department testified that in calculating Claimant's monthly earned income, it relied on the Work Number to determine the amount of earned income from Claimant's two sons' employment at [REDACTED] and [REDACTED]. The Department testified that it considered the following: (1) \$451.01 paid on May 23, 2013 from Walmart; (2) \$572.95 paid on June 6, 2013 from [REDACTED] (3) \$535.08 paid on May 17, 2013 from [REDACTED] and (4) \$243.84 paid on May 31, 2013 from [REDACTED] (Exhibit 2). The Department is to apply a 20% earned income deduction to Claimant's total earned

income. BEM 550 (February 2012), p. 1. After further review, the figures relied on by the Department in calculating Claimant's earned income do not amount to a total earned income of \$1, 426.00 as the Department determined. Therefore, the Department did not satisfy its burden in establishing that it acted in accordance with Department policy when it calculated Claimant's earned income.

The gross amount of money earned from RSDI is included in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (May 2013), pp. 21. The Department determined that Claimant had unearned income of \$1,455.00 which came from monthly RSDI benefits. Claimant confirmed this amount. Therefore, the Department properly calculated Claimant's unearned income.

The budget shows that the Department applied the \$159.00 standard deduction applicable to Claimant's confirmed group size of four and that the \$575.00 standard heat and utility deduction available to all FAP recipients was properly applied. (Exhibits 1);RFT 255 (October 2012), p 1; BEM 554 (October 2012), pp. 11-12. The Department determined Claimant's housing costs were \$896.00, which Claimant confirmed.

Claimant's FAP group includes Senior/Disabled/Veteran (SDV) members, the group is eligible for a deduction for verified medical expenses incurred in excess of \$35.00. BEM 554, p 1. The Department applied an \$8.00 deduction for medical expenses to Claimant's budget.

Because of the errors in the calculation of Claimant's earned income however, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$16.00 effective July 1, 2013.


### **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 in accordance with Department policy when it calculated Claimant's MA deductible and denied Claimant's wife's application for MA. The Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits. Accordingly, the Department's MA decisions are AFFIRMED and the FAP 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 budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
2. Begin issuing supplements to Claimant for any FAP benefits that he was entitled to receive but did not from July 1, 2013, ongoing; and

3. Notify Claimant of its decision in writing in accordance with Department policy.

  
\_\_\_\_\_  
Zainab Baydoun  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: August 20, 2013

Date Mailed: August 20, 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

ZB/cl

cc:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]