

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

IN THE MATTER OF:



Reg. No.: 2013-66967
Issue Nos.: 2012, 2026, 3003
Case No.: [REDACTED]
Hearing Date: October 7, 2013
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUES

1. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for September 1, 2013, ongoing?
2. Did the Department properly determine Claimant's eligibility for Medical Assistance (MA) coverage for March 2013 and April 2013?
3. Did the Department properly calculate Claimant's MA deductible for July 2013?

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 28, 2013, Claimant applied for MA and requested retroactive coverage for March 2013 and April 2013.

3. On August 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that (1) effective September 1, 2013, her FAP case would close because her net income exceeded the applicable net income limit and (2) her MA application was denied for May 2013 and June 2013 and approved for July 2013 ongoing with a deductible of \$1488 effective September 1, 2013.
4. On August 28, 2013, Claimant requested a hearing disputing the Department's actions.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, on August 19, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP case was closing effective September 1, 2013, because her net income exceeded the applicable limit. The Notice also denied Claimant MA coverage for May 2013 and June 2013 but informed her that she was eligible for MA coverage subject to a \$1,488 monthly deductible effective September 1, 2013. The Department testified that when Claimant requested her hearing, it revisited her case and approved her for monthly FAP benefits of \$36 for September 2013 and for \$16 monthly for October 2013 ongoing. Although the Department was asked to provide a copy of the Notice of Case Action reflecting this change, it did not do so.

During the course of the hearing, Claimant clarified that she wanted to proceed with a hearing to address her FAP benefits, the denial of her MA coverage for March 2013 and April 2013, and the calculation of her MA deductible for July 2013.

Calculation of FAP Benefits

Claimant requested a hearing disputing the Department's calculation of her FAP benefits, specifically concerning whether the Department properly considered her medical expenses in calculating her FAP benefits. Because Claimant is a

Senior/Disabled/Veteran (SDV) member of her FAP group, she is eligible for a deduction for verified medical expenses she incurs in excess of \$35. BEM 554 (October 2012), p. 1.

In this case, the Department testified that when it recalculated Claimant's FAP eligibility at the time she filed her hearing request, it determined that Claimant was eligible for an \$803 medical expense deduction for September 2013 and a \$649 medical expense deduction for October 2013. At the hearing, the Department was able to establish that Claimant had ongoing monthly medical expenses totaling \$321 consisting of (i) \$105 for Part B Medicare premium, (ii) \$38 for Part D Medicare premium, (iii) \$136 for a health insurance premium, and (IV) \$42 for health insurance premium. However, the Department was unable to identify what additional expenses were considered in calculating Claimant's medical expense deduction.

At application and redetermination, the Department calculates medical expenses for FAP budgets based on verified allowable medical expenses, available information about the SDV member's medical condition and health insurance, and changes that can reasonably be anticipated to occur during the benefit period. BEM 554, p. 6. During the benefit period, the Department processes medical expenses that 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. Expenses are budgeted for the month they are billed or otherwise become due. BEM 554, p. 3.

FAP groups that do not have a 24-month benefit period 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, p. 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. In this case, the Department could not identify the medical expenses over the \$321 in insurance premiums used to calculate the medical expense deduction.

At the hearing, Claimant pointed out that she recently reported to the Department a payment arrangement that she entered into with a medical provider and a new health insurance premium for dental coverage. The Department is required to process this reported change in medical expenses in accordance with policy.

Claimant also testified that her actual unemployment benefits for September 2013 and October 2013 were not consistent with the amounts used by the Department in the budgets described. The Department did not present a consolidated inquiry to establish its basis for the figures used.

Because the Department was unable to establish the basis for Claimant's medical expense deduction and unemployment income, the Department failed to satisfy its burden of showing that it calculated Claimant's FAP benefits for September 1, 2013, ongoing in accordance with Department policy.

MA Coverage for March 2013 and April 2013

Claimant applied for MA on May 28, 2013, and requested retroactive coverage for March 2013 and April 2013. At the hearing, Claimant testified that she was concerned about her MA eligibility for March 2013 and April 2013. The Department explained that Claimant was approved for MA effective July 1, 2013, because she turned 65 years old that month and became age-eligible for MA coverage. Although it originally sent Claimant the August 19, 2013, Notice of Case Action denying her MA application for the May 2013 application month and for March 2013 and April 2013, the retroactive MA months requested, the Department testified that after it sent the Notice it realized that Claimant's case should have been referred to the Medical Review Team (MRT). The Department then gathered Claimant's medical documentation from Claimant and forwarded the packet to MRT. During the course of the hearing, the Department became aware that MRT had issued a September 12, 2013, decision finding Claimant blind or disabled as of February 2013. However, the Department was unable to establish why it had not reregistered and reprocessed her application and notified Claimant of her MA eligibility. In failing to do so, the Department did not act in accordance with Department policy. See BAM 815 (July 2013), pp. 6-7.

Deductible for July 2013

At the hearing, Claimant was also concerned about the calculation of her July 2013 MA deductible based on inconsistent information online which showed a \$162 deductible, from a Notice of Case Action which showed a \$548 deductible, and from her caseworker who informed her that the deductible was \$1,166.

Clients are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; RFT 240 (July 1, 2007), p. 1. In this case, the monthly PIL for an MA group of one (Claimant) living in Oakland County is \$408 per month. RFT 200 (July 2007), p. 1; RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly income exceeds the applicable PIL. BEM 545 (July 2011), p. 2. Thus, if Claimant's net monthly income exceeds \$408, she is eligible for MA coverage with a monthly deductible equal to the amount that her monthly net income exceeds \$408.

The Department did not provide a budget showing the calculation of the deductible but attempted to explain the information the Department used to calculate the deductible during the hearing. The Department testified that it excluded the \$321 in insurance

premiums Claimant was responsible for paying in the calculation of her deductible. The Department acted in accordance with Department policy in considering these need expenses in calculating the deductible. BEM 544, p. 1. However, a review of the record shows that the Department's testimony failed to clearly identify the income it relied upon, particularly Claimant's unemployment income for the month of July 2013, in calculating the deductible. Accordingly, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the July 2013 deductible.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it (1) calculated Claimant's FAP benefits for September 1, 2013, ongoing, (2) failed to reregister and process Claimant's MA application, and retroactive application, upon being notified of the MRT decision finding Claimant blind/disabled for February 2013 ongoing; and (3) calculated her MA deductible for July 2013.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's FAP eligibility and benefit amount for September 1, 2013, ongoing;
2. Supplement Claimant for any FAP benefits she was eligible to receive but did not from September 1, 2013, ongoing;
3. Reregister Claimant's May 28, 2013, MA application with request for retroactive coverage for March 2013 and April 2013;
4. Begin reprocessing the application to determine if all other non-medical criteria are satisfied and notify Claimant of its determination; and
5. Provide Claimant with MA coverage she is eligible to receive from March 2013 ongoing.



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

Date Signed: October 15, 2013

Date Mailed: October 15, 2013

NOTICE OF APPEAL: 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.

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).

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

cc:

