

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67260
Issue Nos.: 2013, 2026, 3002
Case No.: [REDACTED]
Hearing Date: October 9, 2013
County: Wayne (82-18)

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 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED] [REDACTED] Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

ISSUES

1. Did the Department properly close Claimant's husband's Medical Assistance (MA) coverage under the Ad-Care program?
2. Did the Department properly provide Claimant's husband with MA coverage subject to a monthly \$584 deductible?
3. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective September 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, her husband and child were ongoing recipients of FAP, and Claimant's husband received MA coverage under the Ad-Care program.
2. After processing a FAP redetermination, the Department recalculated Claimant's FAP budget and her husband's MA eligibility.

3. Claimant's husband receives monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1,363 and their daughter receives monthly RSDI income of \$681.
4. On August 21, 2013, the Department sent Claimant a Notice of Case Action notifying her that her monthly FAP benefits were decreasing to \$46 effective September 1, 2013, and her husband's MA coverage under the Ad-Care Program was closing effective October 1, 2013, because his income exceeded the income limit for the program but he was eligible for MA coverage subject to a monthly \$584 deductible.
5. On September 3, 2013, Claimant filed a request for 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, in an August 21, 2013, Notice of Case Action, the Department notified Claimant that effective September 1, 2013, she was eligible for monthly FAP benefits of \$46 and that effective October 1, 2013, her husband was no longer eligible for MA under the Ad-Care program but was eligible for MA coverage under the Group 2 Caretaker Relatives (G2C) program subject to a monthly deductible of \$548.

Closure of Ad-Care

The Ad-Care program provides full MA coverage to disabled clients who meet the net income limit. BEM 163 (October 2010), p. 1. At the hearing, the Department explained that Claimant's husband was no longer eligible for full-coverage MA under the Ad-Care program because his income exceeded the income limit applicable under the program. The income limit under the Ad-Care program where there are two members in the MA fiscal group (Claimant and her husband) is \$1,293. BEM 163, p. 2; BEM 211 (November 2012), pp. 6-7; RFT 242 (April 2013), p. 1.

The Department provided an SSI-related MA budget showing the calculation of Claimant's net income for MA purposes. The budget shows Claimant's husband had unearned RSDI income of \$1,363, which he confirmed. The Department properly applied a \$20 unearned income disregard, resulting in Claimant's net unearned income of \$1,343. See BEM 541 (January 2011), p. 3. Because Claimant's net income of \$1,343 exceeded the applicable \$1,293 income limit under the Ad-Care program, the Department acted in accordance with Department policy when it closed Claimant's husband's MA coverage under Ad-Care.

MA Deductible

The Department testified that, although Claimant's husband was not eligible for full-coverage MA, he was eligible for MA with a monthly \$548 deductible. Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (October 2010), p. 1; BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; RFT 240 (July 2007), p. 1. The monthly PIL for an MA fiscal group size of two (Claimant and her husband) living in [REDACTED] is \$500. RFT 200 (July 2007), p. 1; RFT 240, p. 1. Thus, if Claimant's husband's net income is in excess of \$500, he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$500. BEM 545 (July 2011), p. 2.

The Department presented a G2 FIP-related MA budget showing the calculation of Claimant's husband's net income and deductible. The child's RSDI income is **not** used to determine the father's MA eligibility. See BEM 211, p. 4. Claimant's husband's sole income is his \$1,363 in monthly RSDI income. Taking into consideration that the husband resides with Claimant (his wife) and their minor child, Claimant's net income, calculated in accordance with BEM 536, pp. 3-5, is \$1,084. Claimant's husband did not present any evidence showing that he was eligible for any further deductions to this income. See BEM 544, p. 1. Because Claimant's net income of \$1,084 exceeds the applicable \$500 PIL by \$584, the Department acted in accordance with Department policy when it determined that Claimant's husband was eligible for MA coverage subject to a monthly \$584 deductible.

Calculation of FAP Benefits

In the August 21, 2013, Notice of Case Action, the Department notified Claimant that her FAP group was eligible for monthly FAP benefits of \$46 effective September 1, 2013. The Department presented an FAP budget showing the calculation of Claimant's FAP benefits. The FAP budget showed unearned income totaling \$2,044, which the Department testified consisted of Claimant's husband's monthly \$1,363 RSDI income and their child's monthly \$681 RSDI income, which Claimant's husband confirmed.

Claimant's husband, as a senior/disabled/veteran (SDV) member of the FAP group is eligible for a medical expense deduction for all verified monthly out-of-pocket medical expenses he incurs in excess of \$35. BEM 554 (October 2012), p. 6. Claimant's husband verified that he had not presented any verification of medical expenses to the Department. The group had no day care or child support expenses.

Based on the evidence presented at the hearing, Claimant's FAP group was eligible for a standard deduction and an excess shelter deduction. The standard deduction available to Claimant's group size of three (Claimant, her husband, and their child) is \$148. RFT 255 (October 2012), p. 1.

In calculating Claimant's excess shelter deduction, the Department testified that it considered the group's monthly shelter expenses of \$670. RFT 255, p. 1; BEM 554, p. 1. A copy of Claimant's rental agreement shows that Claimant's group is responsible for monthly shelter expenses totaling \$805, consisting of \$670 in rent, \$35 in monthly charges and \$100 for a short-term lease surcharge. Housing expense payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure **and** it has not been allowed in a previous FAP budget. BEM 554, p. 10. Furthermore, additional expenses for optional charges are not allowed. BEM 554, p. 10. The \$35 surcharge, which Claimant's husband testified was for a washer and dryer, was not a permissible shelter expense under policy. In the absence of any evidence in the lease addendum that the landlord required the \$100 short-term lease surcharge in order to prevent eviction or that the surcharge had not been in a prior FAP budget, the Department acted in accordance with Department policy when it excluded the \$100 surcharge in the calculation of the shelter deduction. Thus, the Department properly considered Claimant's housing expenses of \$670 in calculating the excess shelter deduction. The excess shelter deduction, based on the monthly housing expenses of \$670 and the \$575 heat and utility standard applicable to all FAP recipients, is \$297, as reflected on the FAP budget. RFT 255, p. 1; BEM 554, p. 1. After Claimant's total income is reduced by the standard deduction and the excess shelter deduction, her net income is \$1,599, consistent with the FAP budget.

Based on net income of \$1,599 and a FAP group size of three, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$46. BEM 556 (July 2011); RFT 260 (December 2012), p. 14.

DECISION AND ORDER

Accordingly, the Department's decisions are AFFIRMED.



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:

