

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67827
Issue Nos.: 2026, 3002
Case No.: [REDACTED]
Hearing Date: October 9, 2013
County: Wayne (82-19)

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 [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$631 deductible?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

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 is an ongoing recipient of FAP and MA benefits.
2. Claimant's monthly income consists of Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1,026.
3. On August 1, 2013, the Department sent Claimant a Notice of Case Action notifying him that, effective September 1, 2013, ongoing, he was eligible for MA subject to a monthly \$631 deductible and to monthly FAP benefits of \$73.

4. On September 12, 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 1, 2013, Notice of Case Action, the Department notified Claimant that effective September 1, 2013, he was eligible for monthly FAP benefits of \$73 and MA coverage under the Group 2 Aged, Blind, Disabled (G2S) program subject to a monthly deductible of \$631.

MA Deductible

The Department testified that Claimant was eligible for MA subject to a monthly \$631 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 166 (October 2010), pp. 1-2; BEM 544 (August 2008), p. 1; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA fiscal group size of one (Claimant) living in Wayne County is \$375. BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Claimant's MA coverage is subject to a deductible if his monthly net income, based on his gross income, is greater than \$375. BEM 166, p. 2; BEM 545 (July 2011), p. 2.

The Department presented an SSI-related MA budget showing the calculation of Claimant's net income and deductible. Claimant's sole income is his \$1,026 in monthly RSDI income, which the AHR confirmed. This amount is reduced by a \$20 disregard, resulting in a net unearned income of \$1,006. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 3.

Because the Department pays Claimant's Part B Medicare premium and the AHR did not present any evidence of other health insurance premiums or other allowable needs, Claimant is not eligible for any further deductions from his net unearned income. See BEM 544, pp. 1-2. Therefore, Claimant's net income for MA purposes was \$1,006. Because Claimant's net income of \$1,006 exceeded the \$375 PIL applicable to him by \$631, Claimant was eligible for MA coverage with a \$631 monthly deductible. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's MA monthly deductible.

Calculation of FAP Benefits

The September 2013 FAP net income budget presented by the Department showing the calculation of Claimant's monthly FAP benefits was reviewed with the AHR to verify the information used by the Department.

The budget showed no medical expense deduction. Claimant, 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. In preparing a FAP budget, the Department can estimate an SDV person's medical expenses for the benefit period at application or at redetermination based on an estimate of 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. A FAP group may also voluntarily report changes during the benefit period, which the Department will process, if these expenses are either (1) voluntarily reported and verified during the benefit period (such as expenses reported and verified for MA deductible) or (2) reported by another source and the Department has sufficient information and verification to determine the allowable amount without contacting the FAP group. BEM 554, pp. 6-7.

In this case, the Department testified that Claimant submitted medical expenses to the Department on a monthly basis to establish his MA deductible and that these expenses were considered in Claimant's FAP budget for the applicable month and a FAP supplement was issued to Claimant if additional FAP benefits were due to him. The AHR acknowledged that Claimant's September 2013 medical expenses had not been submitted. Under these facts, where the Department did not estimate a monthly medical expense deduction for the benefit period and Claimant reported and verified his monthly medical expenses in connection with his MA deductible, the FAP budget properly did not include a medical expense deduction because no medical expenses for the month had yet been reported and verified.

The FAP budget showed unearned income totaling \$1,026, Claimant's monthly RSDI income. Claimant had no child care or child support expenses. Based on the evidence presented at the hearing, Claimant was eligible for a standard deduction and an excess shelter deduction. Because Claimant was the sole member of his FAP group, the applicable standard deduction was \$148, as reflected on the budget. RFT 255 (October

2012), p. 1. The excess shelter deduction, based on the monthly housing expenses of \$310, which the AHR verified as Claimant's housing expenses for September 2013 ongoing, and the \$575 heat and utility standard applicable to all FAP recipients, is \$446. RFT 255, p. 1; BEM 554, p. 1. The FAP budget, however, shows an excess shelter deduction of only \$439. While the Department testified that a Notice of Case Action had been issued to address this, the Department failed to provide a copy of the Notice showing that this information had been updated. Furthermore, the eligibility summary presented by the Department showed an issuance of only \$68 in monthly FAP benefits, consistent with the FAP budget, for September 2013 ongoing. This is contradictory to the August 1, 2013, Notice of Case Action advising Claimant that he was eligible for \$73 in monthly FAP benefits. Because of these discrepancies, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP budget for September 1, 2013, ongoing.

At the hearing, the Department further testified that Claimant had presented medical expense documentation for July 2013 to meet his \$631 deductible, but the FAP budget for that month showed that a medical deduction of only \$12 was considered and the eligibility summary showed that Claimant received only \$73 in FAP benefits for that month. The Department must process medical expenses that a client voluntarily reports **during the benefit period**. BEM 554, pp. 6-7.

The July 9, 2013, Notice of Case Action and the FAP net income budget for September 2013 show that Claimant's benefit period ran from August 1, 2013, to July 31, 2014. The record in this case does not establish if the July 2013 medical expenses were reported and verified to the Department before the expiration of Claimant's FAP benefit period on July 31, 2013, and the Department could not explain why the medical expenses were not considered in the calculation of Claimant's July 2013 FAP benefits. Thus, the Department has failed to satisfy its burden of showing that it calculated Claimant's July 2013 FAP benefits in accordance with Department policy.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the Department's calculation of Claimant's MA deductible and REVERSED IN PART with respect to the Department's calculation of Claimant's FAP benefits for July 2013 and September 1, 2013, ongoing.

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. Begin recalculating Claimant's FAP budget for July 2013 and September 1, 2013, ongoing;

2. Issue supplements to Claimant for any FAP benefits he is eligible to receive, but did not, for July 2013 and for September 1, 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:

