

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

IN THE MATTER OF:

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Reg. No.: 2014 10624
Issue No(s): 2001,3000
Case No.: ████████████████████
Hearing Date: January 21, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ████████████████████ ES.

ISSUE

Did the Department properly reduce the Claimant's Food Assistance Benefits?

Did the Department properly calculate the SSI-related Budget and \$940 deductible?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was an ongoing recipient of FAP benefits and the Department reduced his food assistance benefits as a result of an increase in RSDI to \$1435 which amount was included in the FAP budget and the federal stimulus ending. Exhibits 2 and 3.
2. The Claimant also had a deductible of \$940 imposed as part of his medical assistance based upon his income of \$1435 and medical insurance premium of \$99.90. Exhibit 4
3. The Claimant's mortgage in the amount of \$767.45 was not included in the FAP budget. A review of the case file determined that the Department did not receive

verification of the mortgage. The Claimant's Food Assistance reduction from \$16.00 to \$15.00 was a result of a mass update due to the federal stimulus ending.

4. The Department imposed a medical deductible of \$940 on the Claimant's medical assistance based upon his income of \$1435. Exhibit 4
5. The Claimant requested a hearing on October 16, 2013 protesting the medical assistance deductible and the FAP reduction.

CONCLUSIONS OF LAW

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.

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).

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(3), in pertinent part, states:

A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

See also Bridges Administrative Manual (BAM) which articulates policies regarding the hearing process. The Michigan Administrative Hearing System will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600.

In the instant case, the evidence and testimony provided confirm that Claimant is disputing a change in his Food Assistance Program (FAP) allotment that resulted from a mass change in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). There are no other issues raised by the parties for which a hearing would be conducted. As there is no right to contest the change in law or policy, the Request for Hearing is DISMISSED.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA protected income levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group 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 Claimant's monthly net income, based on his gross income, is greater than \$375.

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Claimant's case was calculated. Claimant confirmed that his monthly gross income consisted of his \$1,435 in Retirement, Survivors and Disability Insurance (RSDI) benefits. Thus, the Department properly concluded that Claimant's gross income was \$1,435. This amount is reduced by a \$20 disregard, resulting in a net unearned income of \$1,415. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 3.

The Department properly determined that the PIL for one person living in Wayne County is \$375. Additionally, a review of the deductible calculation was made. It is noted that the Department included the correct income of \$1435 and the protected income level used of \$375 is also correct. It is noted based upon the SOLQ provided the medical expenses reported were \$104.90 for the Part B premium; however, the Department only deducted \$99.90. It is determined that the amount of the insurance premium is incorrect and that the Budget should be recalculated to use the correct Part B premium. Exhibits 3 and 4.

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

- acted in accordance with Department policy when it reduced the Claimant's Food Assistance by \$1 as a result of the ending of the federal stimulus.
- did not act in accordance with Department policy when it improperly calculated the Medical Assistance Deductible using the wrong medical expense.

DECISION AND ORDER

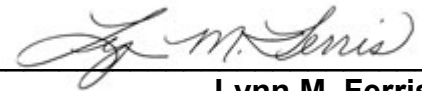
Accordingly, the Department's decision is

DISMISSED WITH REGARDS TO THE FAP BENEFIT DECREASE DUE TO THE FEDERAL STIMULUS ENDING.

REVERSED WITH REGARD TO THE MEDICAL DEDUCTIBLE.

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. The Department shall recalculate the medical assistance deductible amount and shall include the \$104.90 in Medicare Part B premium paid by the Claimant as the correct insurance premium.
2. The Department shall provide notice to the Claimant of the new deductible.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 11, 2014

Date Mailed: February 11, 2014

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]