

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201418303
Issue No.: 2001; 3008
Case No.: [REDACTED]
Hearing Date: January 22, 2014
County: Wayne (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 January 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's wife. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's wife's application for Medical Assistance (MA) benefits?

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. On [REDACTED], 2013, Claimant's wife applied for MA coverage.
2. The Department denied the MA application.
3. In connection with processing the MA application, the Department recalculated Claimant's FAP benefits.

4. On [REDACTED], 2013, the Department sent Claimant a Notice of Case Action notifying him that his monthly FAP benefits would decrease to \$109 effective [REDACTED], 2014, ongoing.
5. On [REDACTED], 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, Claimant filed a request for hearing disputing the Department's denial of his wife's MA application and the calculation of their monthly FAP benefits.

Denial of MA Application

The Department failed to present into evidence the relevant notice of case action denying Claimant's wife's MA application. Based on the Department's testimony at the hearing, the Department denied the application because enrollment in the Adult Medical Program (AMP) was frozen and because Claimant did not identify herself as blind, disabled, pregnant, the parent/caretaker of a dependent child, under age 21 or age 65 or older in her application.

An individual may receive MA coverage if she qualifies under (i) a FIP-related MA category, which is available if the individual has dependent children who live with her, is the caretaker relative of dependent children, is under age 21, or is pregnant or recently pregnant, or (ii) an SSI-related MA category, which is available if the individual is aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. BEM 105 (July 2013), p. 1; BEM 132 (July 2013), p. 1; BEM 135 (July 2013), p. 1; BEM 163 (July 2013), p. 1; BEM 166 (July 2013), p. 1.

The evidence presented at the hearing established that Claimant's wife did not meet any of the criteria for SSI-related or FIP-related MA. Thus, the Department acted in accordance with Department policy when it denied Claimant's wife's MA application.

The Department also denied Claimant's wife's eligibility for AMP medical coverage. AMP provides limited medical services for persons not eligible for MA coverage. BEM 100 (October 2013), p. 6. The AMP program was closed to new enrollees in [REDACTED] 2013, the month of Claimant's application. Therefore, the Department acted in accordance with Department policy when it denied Claimant's [REDACTED], 2013 application for AMP eligibility. See BEM 640 (July 2013), p. 1.

Calculation of FAP Benefit Amount

Claimant also requested a hearing to dispute the calculation of his monthly FAP benefits. The Department did not present a copy of the FAP budget into evidence. A copy of the relevant notice of case action was admitted into evidence after the hearing but was not reviewed at the hearing. During the course of the hearing, the following issues concerning the calculation of Claimant's FAP benefits were addressed: (i) the inclusion of Claimant's child support payments as an expense in the budget; (ii) the calculation of Claimant's wife's gross monthly employment income; (iii) the monthly shelter expenses considered; and (iv) the calculation of Claimant's unearned income. Claimant confirmed that he had no child day care expenses or out-of-pocket medical expenses in excess of \$35 and that he and his wife were the only members of his FAP group.

Child Support Expenses

A deduction to income is available to FAP groups that have court-ordered child support and arrearages paid to non-household members. BEM 554 (July 2013), pp. 1, 6-7. Although the Department testified that it did not consider Claimant's child support expenses in calculating his FAP benefits, the [REDACTED], 2013, Notice of Case Action provided after the hearing shows that the Department considered monthly child support expenses of \$486. At the hearing, Claimant testified that his monthly child support expenses were \$498 and were garnished from his RSDI benefits. A review of the Single Online Query (SOLQ) report showing the RSDI benefits paid by the Social Security Administration to Claimant shows that Claimant was eligible for gross RSDI benefits of \$1372 but received net benefits of \$885.80. The difference between the \$1372 Claimant received and the \$885.80 he was paid is \$486.20. This supports the Department's consideration of monthly child support expenses of \$486. Therefore, the Department acted in accordance with Department policy in determining the child support expense deduction of \$486.

Wife's Employment Income

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 (July 2013), p. 1. In prospecting income, the Department is required to use income from the past thirty 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, 5.

In this case, the Department testified that it used the following employment income in prospecting Claimant's wife's gross monthly earned income: (i) \$170.52 received on [REDACTED], 2013; (ii) \$144.73 received on [REDACTED], 2013; (iii) \$127.68 received on [REDACTED], 2013; and (iv) \$169.34 received on [REDACTED], 2013. A review of Claimant's employment history showed that although Claimant's weekly earnings fluctuated, the earnings considered by the Department accurately reflected amounts she received. Based on the above weekly income, Claimant's average weekly income multiplied by 4.3 in accordance with Department policy results in gross monthly income of \$658. See BEM 505, pp 7-8. Because this is the figure shown on the Notice of Case Action, the Department properly calculated Claimant's wife's gross monthly income.

Claimant's wife is also eligible for an earned income deduction equal to 20% of her earned income, or \$132 in this case. See BEM 556 (July 2013), p. 3. The Notice of Case Action does not reflect whether an earned income deduction was considered in calculating Claimant's monthly FAP benefits. Thus, the Department has failed to satisfy its burden of showing that it properly calculated and applied the earned income deduction.

Shelter Expenses

Verified shelter expenses are considered in the calculation of a client's FAP benefits, and for FAP groups with a senior/disabled/veteran (SDV) member, the calculation of the excess shelter deduction (based in part on the amount of shelter expenses) is not limited. BEM 554, p. 1. Shelter expenses are allowed when billed even if the expenses are not paid. BEM 554, p. 12.

In this case, the Department testified that Claimant's wife reported monthly shelter expenses of \$750 in her MA application. Because Claimant was unable to provide written verification of this amount, the Department contacted Claimant's landlord by phone and the landlord informed the Department that Claimant's monthly rent was \$700.

Claimant testified that his monthly rent was \$750 and that the landlord must have inadvertently told the Department that his rent was \$700. Because the Department was able to verify shelter expenses of only \$700, the Department acted in accordance with Department policy when it considered this amount in calculating Claimant's FAP benefits. See BEM 554, p 14; BAM 130 (January 2014), pp 1-2. However, the Department was unable to establish at the hearing that it properly calculated Claimant's excess shelter deduction, which is based on the shelter expense and the \$553 standard heat and utility standard. BEM 556, pp 4-5. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating Claimant's excess shelter deduction.

Claimant's Unearned Income

Claimant verified that he received gross monthly RSDI income of \$1372 and a monthly \$101 pension. The total of these two income sources is \$1473. The Notice of Case Action shows that the Department considered unearned income of \$1474. The Department did not explain this discrepancy on the record. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's unearned income.

Based on the Department's failure to establish on the record that it applied an earned income deduction to Claimant's wife's earned income; and that it properly calculated Claimant's unearned income and the excess shelter deduction, the Department failed to satisfy its burden of showing that it calculated Claimant's FAP budget in accordance with Department policy.

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 denied Claimant's wife's MA application but failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to denial of Claimant's wife's MA application and REVERSED IN PART with respect to calculation of Claimant's FAP benefits.

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 budget for [REDACTED], 2014, ongoing;
2. Issue supplements to Claimant for FAP benefits he was eligible to receive but did not from [REDACTED], 2014, ongoing
3. Notify Claimant in writing of its decision.



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

Date Signed: January 27, 2014

Date Mailed: January 27, 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

ACE/tlf

cc:

