

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

IN THE MATTER OF:

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████████████████████
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Reg. No.: 2014-21567
Issue Nos.: 2001, 3008
Case No.: ██████████
Hearing Date: February 10, 2014
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 February 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████
██████████ Participants on behalf of the Department of Human Services (Department) included ██████████.

ISSUES

1. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?
2. Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$1,463 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. Claimant is an ongoing recipient of MA and FAP benefits.
2. Claimant's MA coverage is subject to a monthly \$1,463 deductible.
3. Claimant receives \$15 in monthly FAP benefits for a group consisting of her and her son.

4. On January 2, 2014, Claimant filed a request for hearing disputing the Department's calculation of her FAP benefits and MA deductible.

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 requested a hearing disputing the Department's calculation of her FAP benefits and her MA deductible. .

FAP Benefits

The Department testified that Claimant was eligible for \$15 in monthly FAP benefits and produced a FAP budget showing the calculation of Claimant's FAP benefits that was reviewed at the hearing. Claimant confirmed that there were two members of her FAP group: her and her son. The Department verified that Claimant received MA based on a disability; accordingly, she was a senior/disabled/veteran (SDV) member of her FAP group. BEM 550 (July 2013), p. 1.

The budget showed unearned income of \$1,858, which Claimant verified was her gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits. The budget also showed \$280 in gross monthly employment income received by Claimant's son, which Claimant testified she believed was accurate. Therefore, Claimant's FAP group's gross monthly income is \$2,138, the sum of Claimant's \$1,858 in RSDI income and her son's \$280 in employment income.

Based on the above information, Claimant's FAP group was eligible for the following deductions from the group's gross income under Department policy:

- a standard deduction of \$151 based on the two-person group size [RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4];
- an earned income deduction equal to 20% of the earned income received by the group, or \$56 in this case (BEM 556, p. 3);

- an excess shelter deduction, which takes into account Claimant's verified monthly housing expenses and the \$553 heat and utility standard that applies to all FAP recipients regardless of actual utility expenses and group size [RFT 255, p. 1; BEM 554 (July 2013), pp. 1, 12-15]; and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant verified that she did not have child care or child support expenses and that she had not submitted any proof of her medical expenses to the Department prior to the hearing. In order to be considered in a FAP budget, medical expenses must be verified and, although they do not have to have been paid, they cannot be overdue. BEM 554, p. 11. Because Claimant had not presented any medical expenses to the Department prior to the hearing, her FAP budget properly calculated \$0 for the medical expense deduction.

The FAP budget shows that the Department concluded that Claimant's excess shelter deduction was \$0. Claimant testified that she had monthly housing expenses of about \$840 that she identified in her application. The Department did not provide an excess shelter deduction budget. However, a review of the figures in the FAP budget, and considering \$840 in monthly housing expenses, reveals that the Department did not consider such expenses in calculating Claimant's excess shelter deduction. The Department was unable to rebut Claimant's testimony that she included shelter amounts in her application or most recent redetermination. Further, there was no evidence that the Department requested that Claimant verify reported expenses that Claimant failed to respond to. BEM 554, pp. 12-14. Based on the facts presented, the Department failed to satisfy its burden of showing that it processed any rent reported in Claimant's most recent redetermination, which the evidence shows covers the certification period beginning August 1, 2013, in accordance with Department policy. See BAM 210 (October 2010), p. 14; BAM 406 (July 2013), p. 3.

Because the Department did not establish that it properly calculated Claimant's excess shelter deduction, the Department failed to satisfy its burden of showing that it calculated Claimant's FAP benefits in accordance with Department policy.

During the hearing, Claimant testified that two additional adult children were in her household and she had requested that the children be added to her FAP group prior to the hearing. Because the Department did not have this information at the time it prepared the budget reviewed at the hearing, this information was properly not considered in connection with the review of Claimant's FAP benefit amount in connection with her January 2, 2014, hearing request.

MA Deductible

The Department testified that Claimant was eligible for MA coverage subject to a monthly deductible. Claimant requested a hearing concerning the calculation of the deductible.

Clients are eligible for Group 2 MA coverage when their net income less any allowable needs deductions exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (January 2014), p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. In such cases, the client is eligible for Group 2 MA coverage under the deductible program with the deductible equal to the amount that the client's monthly income exceeds the PIL. BEM 545 (July 2013), p. 2.

Claimant, who lived in [REDACTED] and was not married, was the sole member of her fiscal group for MA purposes. BEM 211 (July 2013), pp. 6-7. The monthly PIL for an MA fiscal group size of one living in Wayne County is \$375 per month. RFT 200 (December 2013), p. 1; RFT 240 (December 2013), p. 1. Thus, if Claimant's net monthly income is in excess of \$375, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her net monthly income exceeds \$375.

After the hearing, the Department provided an SSI-Related MA budget showing how the deductible in Claimant's case was calculated, and the budget was reviewed based on the information provided by Claimant during the hearing.

The budget showed that the Department considered Claimant's unearned income totaling \$1,858, which Claimant confirmed was her monthly RSDI income. Claimant is eligible for a \$20 unearned income disregard, bringing her net unearned income to \$1,838. See BEM 530 (January 2014), p. 1; BEM 541 (January 2014), p. 3. Claimant did not present any evidence establishing eligibility for any additional needs deductions permitted under Department policy. BEM 544, pp. 1-2. Because Claimant's net income of \$1,838 exceeded the applicable \$375 PIL by \$1,463, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for MA coverage subject to a monthly \$1,463 deductible.

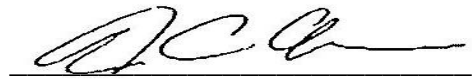
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it found Claimant eligible for MA subject to a \$1,463 monthly deductible but did not act in accordance with Department policy when it calculated Claimant's FAP benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to calculation of Claimant's MA deductible and REVERSED IN PART with respect to calculation of her 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 August 1, 2013, ongoing provided Claimant timely responds to a requested verification of shelter expenses, if necessary; and
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from August 1, 2013, ongoing.



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

Date Signed: February 13, 2014

Date Mailed: February 13, 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/pf

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