

3. On December 26, 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 requested a hearing concerning the decrease in her monthly FAP benefits and concerning her MSP benefits.

FAP Benefits

The Department provided a FAP budget showing its calculation of Claimant's FAP benefits for January 1, 2014, ongoing. The budget was reviewed on the record with Claimant.

The budget showed unearned income of \$1,282 which the Department testified was the sum of Claimant's monthly \$1,142 Retirement Survivors and Disability Insurance (RSDI) income and \$140 in income from her roommate, which the Department testified was based on 35% of the \$400 paid to her by the roommate. Claimant verified that she received \$1,142 in monthly RSDI and \$400 in monthly rent.

Rental income is money an individual receives for allowing another individual to use her property. BEM 504 (July 2013), p. 1. In determining the client's rental income, the Department must deduct allowable expenses from the client's gross rent payment, the amount of which is based on whether the client rents out part of her own dwelling to another individual or provides the individual with room and board. BEM 504 (July 2013), pp. 2-3.

After the Department explained how it calculated the additional \$140 in unearned income, Claimant testified that she was satisfied with the Department's calculation of her income. The deductions considered by the Department were then reviewed.

The evidence at the hearing showed that Claimant, the only member of her FAP group and a senior/disabled/veteran (SDV) member of the group, was eligible for the following deductions to her income:

- a standard deduction of \$151 based on her one-person group size [RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4];
- an excess shelter deduction, which takes into account Claimant's 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 (July 2013), p. 1).

Claimant verified that she had no child care or child support expenses. However, there was evidence presented that Claimant had submitted medical expenses to the Department. The Department must estimate an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The Department considers the medical expenses in the FAP budget when verification of the portion paid, or to be paid, by insurance, Medicare, Medicaid, etc., is provided even if the client has not paid the expense herself. BEM 554, p. 11. **Only** the non reimbursable portion of a medical expense is allowed and the medical bill cannot be overdue. BEM 554, p. 11. Furthermore, a client who does not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. BEM 554 (July 2013), pp. 8-9. In this case, the Department failed to establish that it processed Claimant's medical expenses in accordance with Department policy.

The Department testified that it processed Claimant's excess shelter deduction based on monthly \$814 rental expense. At the hearing, Claimant testified that she informed the Department in her mid-term report submitted in June 2013 that she expected her rent would increase. Although the Department testified that it was not notified of any subsequent changes, Claimant credibly testified that she informed the Department in August of the increase in her rent. The Department did not act in accordance with Department policy when it did not process this reported change. BEM 554, p. 14.

MSP Case

In the December 19, 2013, Notice of Case Action, the Department notified Claimant that effective January 1, 2014, her MSP case was changing from Specified Low-Income Medicare Beneficiaries (SLMB) coverage to Additional Low-Income Medicare Beneficiaries (ALMB) coverage.

MSP benefits assist in payment of Medicare expenses, and there are three categories of MSP coverage: (1) the Qualified Medicare Beneficiaries (QMB) program, which pays a client's Medicare premiums (both Part B premiums and, for those few people who have them, Part A premiums), Medicare coinsurances and Medicare deductibles, (2) the SLMB program, which pays Medicare Part B premiums only, and (3) the ALMB

program, which pays Medicare Part B premiums as long as funding is available, as determined by the Department of Community Health. BEM 165 (October 2013), p. 2.

A client's eligibility for MSP coverage is dependent on the client's net income. BEM 165, p. 1. Effective April 1, 2013, the monthly limit for a group size of one (Claimant) is \$1,149 for SLMB eligibility and \$1,293 for ALMB eligibility. RFT 242 (December 2013), pp. 1-2; BEM 211 (January 2014), p. 4.

In this case, the Department concluded, as discussed above, that Claimant's gross monthly income totaled \$1,282. In calculating MA eligibility, the Department deducts \$20 from unearned income, making Claimant's net unearned income \$1,262. BEM 541 (January 2014), p. 3. Claimant was not eligible for any further need deductions to her income. BEM 544 (July 2013), pp. 1-2. Because Claimant's net MA income of \$1,262 is over the income limit for SLMB coverage but under the ALMB income limit, the Department acted in accordance with Department policy when it closed Claimant's MSP case under the SLMB program and opened her case under the ALMB program.


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 calculated Claimant's MSP eligibility 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 Claimant's MSP eligibility 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 January 1, 2014, ongoing;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2014, ongoing; and
3. Notify Claimant in writing of its decision.


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]
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