

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-25586  
Issue No(s): 3008  
Case No.: [REDACTED]  
Hearing Date: March 6, 2014  
County: Oakland -03

**ADMINISTRATIVE LAW JUDGE: DARRYL T. JOHNSON**

**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 March 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] [REDACTED] and her Guardian and Conservator, [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED].

**ISSUE**

Did the Department properly determine 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 was an on-going recipient of FAP and Medical Assistance (MA) benefits.
2. On December 16, 2013 the Department mailed Claimant a Redetermination (Exhibit 1 Pages 4-7) which had to be completed and returned by January 2, 2014.
3. Claimant's Guardian completed and returned the Redetermination form, and provided copies of a number of non-recurring medical expenses (Exhibit 1 Pges 8-15).
4. Claimant had other on-going, recurring medical expenses that her Guardian had previously provided.
5. The Department processed the medical expenses, and determined that, for purposes of calculating her FAP benefits, Claimant had documented medical expenses of \$960 for the month of December 2013 and January 2014, allowing

her to receive the maximum in FAP benefits of \$189 for each of those months. See Exhibit 1 Pages 16-19. Those months were in the certification period of February 1, 2012 through January 31, 2014.

6. Claimant did not provide documents to establish medical expenses that could be applied to her March 2014 FAP budget and the February 1, 2014 through January 31, 2016 certification period.
7. Claimant's FAP was calculated at \$ [REDACTED] per month, and in a Notice of Case Action (NCA) dated January 23, 2014 (Exhibit 2), she was approved for FAP OF \$ [REDACTED] per month from March 1, 2014 through January 31, 2016.
8. On February 11, 2014, Claimant's Guardian filed a hearing request (Exhibit 1 Page 2).

### **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.

Claimant's Guardian testified that she had not previously been asked to document medical expenses from month to month, even though she had been the Guardian for more than a decade. Past practice had only been that she was expected to provide verification of new or non-recurring medical expenses. The Department did not dispute that testimony regarding past practice.

BEM 530 (1/1/14) states at page 1:

“For a recipient, do a future month budget at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA.

“For a deductible client, do a future month budget at redetermination and when a change occurs that may affect deductible status.”

Claimant was scheduled for a redetermination, so the Department was to prepare a new MA budget. The Department is to

“Use this item for any person whose income is considered in determining income eligibility or a post-eligibility patient-pay amount. See “Exception” below.

“Determine income eligibility and post-eligibility patient-pay amounts (PPA) on a calendar month basis. Use one budget to determine income eligibility (or post-eligibility PPA) for multiple months if the circumstances for each of the months are identical.” *Id.*

BEM 554 explains the budgeting process for FAP. Medical expenses in particular are discussed on pages 8-11 of BEM 554 (1/1/14).

“Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons; see Expenses for Disqualified or Ineligible Persons in this item. Estimate an SDV person’s medical expenses for the benefit period. Base the estimate on all of the following:

Verified allowable medical expenses.

Available information about the SDV member’s medical condition and health insurance.

Changes that can reasonably be anticipated to occur during the benefit period.

### ***During the Benefit Period***

A FAP group is not required to, but may voluntarily report changes during the benefit period. Process changes during the benefit period **only** if they are one of the following:

Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.

Reported by another source and there is sufficient information and verification to determine the allowable amount without contacting the FAP group.

### ***One-Time-Only Expenses***

Groups that do 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. Bridges will allow the expense in the first benefit month the change can affect.

**Exception:** Groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. Budget it for one month.
2. Average it over the remainder of the first 12 months of the benefit period.
3. Average it over the remainder of the 24-month benefit period.

Pages 9-11 list numerous medical expenses that are allowed. Those items will not be listed here. BEM 554 then provides instructions for estimating and determining allowable medical expenses.

“Estimate an SDV person’s medical expenses for the benefit period. The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow **only** the non reimbursable portion of a medical expense. The medical bill cannot be overdue.

“The medical bill is **not** overdue if one of the following conditions exists:

- Currently incurred (for example, in the same month, ongoing, etc.).
- Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
- Client made a payment arrangement before the medical bill became overdue.”

The Claimant’s Guardian was convincing in her testimony that she had previously submitted evidence of on-going medical expenses which the Department had found sufficient for it to estimate her on-going monthly medical expenses at \$960. She was also convincing with her explanation for not including verification of those expenses with the Redetermination. The Department did not properly estimate Claimant’s medical expenses for the certification period.

The Claimant’s Guardian is encouraged to provide the Department with available documentation that will allow the Department to accurately estimate Claimant’s medical expenses.

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 did not act in accordance with Department policy when it calculated Claimant’s FAP benefits.

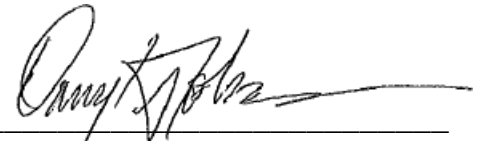
### **DECISION AND ORDER**

Accordingly, the Department’s decision is **REVERSED**.

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. Redetermine Claimant's FAP benefit eligibility, effective March 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



**Darryl T. Johnson**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: March 7, 2014

Date Mailed: March 7, 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.

2014-25586/DTJ

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

DTJ/las

cc:

