

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

IN THE MATTER OF:



Reg. No.: 2014-26569
Issue No(s): 2007; 3008
Case No.: [REDACTED]
Hearing Date: March 6, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist. Also, [REDACTED], was presented as Claimant's interpreter.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$567 for February 1, 2014, ongoing?

Did the Department properly calculate Claimant's spouse Medical Assistance (MA) - Group 2 Caretaker Relatives (G2C) coverage with a monthly \$16 deductible for February 1, 2014, ongoing?

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 FAP benefits. See Exhibit 1.
2. Claimant's spouse is an ongoing recipient of MA benefits. See Exhibit 1.
3. For February 2014, Claimant received FAP benefits in the amount of \$567. See Exhibit 1.

4. For February 2014, Claimant's spouse received MA – G2C coverage with a monthly \$16 deductible. See Exhibit 1.
5. On February 6, 2014, Claimant filed a hearing request, protesting her spouse's MA deductible and the FAP allotment. See Exhibit 1.

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.

FAP benefits

In this case, Claimant is an ongoing recipient of FAP benefits. See Exhibit 1. For February 2014, Claimant received FAP benefits in the amount of \$567. See Exhibit 1. Claimant testified that she was disputing her FAP allotment effective February 1, 2014, ongoing.

It was not disputed that the certified group size is six and that Claimant's spouse is a senior/disabled/disabled veteran (SDV) member. The Department presented a November 2013 FAP budget, which also reflected the same calculations for February 2014. See Exhibit 1. The Department calculated a total gross unearned income amount of \$1,740. See Exhibit 1. This amount consisted of Claimant's spouse monthly \$1,244 Retirement, Survivors, and Disability Insurance (RSDI) income. See SOLQ, Exhibit 1. Also, four of the FAP group members each received \$124 in monthly RSDI income (total of \$496). Thus, this resulted in a total unearned income amount of \$1,740. Claimant did not dispute this amount. See BEM 503 (January 2014), p. 28.

The Department then properly applied the \$218 standard deduction applicable to Claimant's group size of six. RFT 255 (December 2013), p. 1. The budget also indicated zero in medical deductions, however, Claimant's spouse pays for his \$104.90

in Part B Premium Medicare. See SOLQ, Exhibit 1. Claimant receives a net RSDI income of \$1,140 after the Medicare deduction.

For groups with one or more SDV member, the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (February 2014), p. 1. A Medicare premium is an allowable medical expense. See BEM 554, pp. 9-10. The Department estimates an SDV person's medical expenses for the benefit period. BEM 554, p. 11. The expense does not have to be paid to be allowed. BEM 554, p. 11. The Department allows medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. BEM 554, p. 11.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's medical deduction effective February 1, 2014, ongoing, in accordance with Department. The evidence establishes that Claimant's spouse is responsible for his \$104.90 Medicare premium. See SOLQ, Exhibit 1. Moreover, the SOLQ establishes that Claimant is disabled. See SOLQ, Exhibit 1. Therefore, Claimant is an SDV member and is allowed medical expenses that exceed \$35. See BEM 554, p. 1. Therefore, the Department will recalculate Claimant's spouse medical deduction effective February 1, 2014, ongoing, in accordance with Department policy. See BEM 554, pp. 1 and 9-11.

It should be noted Claimant did not dispute her monthly housing expenses in the amount of \$619.52 (comprised of their mortgage and homeowners insurance). See Exhibit 1. Also, the Department properly applied Claimant's utility standard of \$553, which encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount. See BEM 554, pp. 14-15 and RFT 255, p. 1.

MA – G2C deductible

In this case, Claimant's spouse is an ongoing recipient of MA benefits. See Exhibit 1. For February 2014, Claimant's spouse received MA – G2C coverage with a monthly \$16 deductible. See Exhibit 1. Claimant testified that she was disputing her husband's MA deductible for February 1, 2014, ongoing. The Department presented the MA – G2C February 2014 budget for review. See Exhibit 1.

G2C is a FIP-related Group 2 MA category. BEM 135 (July 2013), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for FIP-related groups in BEM 211. BEM 135, p. 2. BEM 211 states a child's income cannot be used to determine a parent's eligibility. BEM 211 (July 2013), p. 5. In summary, the Department will only use both the Claimant and spouse's income in the G2C calculation. See BEM 211, p. 5.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (January 2014), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for the Claimant and spouse. See BEM 536, p. 1.

First, a budgetable income will be done to determine the adult's (Claimant's spouse) prorated income. As stated above, it was not disputed that the spouse's RSDI income (unearned) is \$1,244. See SOLQ, Exhibit 1.

The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Claimant's spouse number of dependents is five (spouse plus four minor children). The Department then adds 2.9 to Claimant's spouse number of dependents (five), which results in a prorate divisor of 7.9. BEM 536, p. 4. The Department will then divide the person's total net income by the prorate divisor, which results in the adult's prorated share amount of \$157 (\$1,244 net income divided by 7.9 prorate divisor). BEM 536, p. 4 and see Exhibit 1.

Second, as stated above, it was not disputed that Claimant's RSDI income (unearned) was \$124. Claimant's number of dependents is five (spouse plus four minor children). The Department then adds 2.9 to Claimant's number of dependents (five), which results in a prorate divisor of 7.9. BEM 536, p. 4. The Department will then divide the person's total net income by the prorate divisor, which results in the spouse's prorated share amount of \$15 (\$124 net income divided by 7.9 prorate divisor). BEM 536, p. 4 and see Exhibit 1.

Then, an adult's fiscal group's net income is the total of the following amounts:

- The adult's net income ("Fiscal Group Member's Total Net Income") if the adult has no dependents or 2.9 prorated shares of the adult's own income if the adult has dependents (adult's "Step 13" times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "Step 13" times 3.9), plus
 - one prorated share of the adult's (person requesting MA) income (adult's amount from "**Step 13**").

Note: This is the couple's share of each other's income.

BEM 536, pp. 6-7.

Applying the above policy, the Department calculated an adult's share of adult's own income of \$455 (\$157 times 2.9). See BEM 536, p. 6. Plus, the spouse's share of spouse's own income, which is \$58 (\$15 times 3.9). See BEM 536, p. 6. Plus, the couple's share of each others income, which is \$157 (one prorated share of the adult's (persons requested MA) income. See BEM 536, pp. 6-7. When all of these amounts are added together, this results in a total of \$670.

The budget also recognized Claimant's spouse insurance premium need in the amount of \$104. See Exhibit 1. BEM 536 states to use the policies in BEM 544 and 545 to complete the determination of income eligibility for each person requesting MA. BEM 536, p. 7. BEM 544 states to count as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group regardless of who the coverage is for. BEM 544 (July 2013), p. 1-2. Thus, the Department properly included the \$104 in insurance premium as a need item. However, when the need item (\$104) is subtracted from the \$670 calculation above, this results in a total of \$566.

The budget, though, indicates a total net income of \$548. See Exhibit 1. This is an \$18 difference, which is unaccounted for. The difference most likely accounts for the Claimant's RSDI cost-of-living (COLA) increase. For MA only, the countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. BEM 503 (January 2014), p. 29. Federal law requires the COLA increase received in January be disregarded for these three months. BEM 503, p. 29. For all other months countable RSDI is the gross amount for the month being tested. BEM 503, p. 29. For example, the Department presented Claimant's SOLQ, which indicated his previous RSDI income (December 2012, ongoing) was \$1,226. See SOLQ, Exhibit 1. However, Claimant's SOLQ indicated that his RSDI income (December 2013, ongoing) increased to \$1,244. See SOLQ, Exhibit 1. This is an \$18 difference. Thus, the most probably explanation is the budget disregarded the COLA increase for the month being tested (February 2014). See BEM 503, p. 29. Nevertheless, this is harmless error because the Department still applied a lesser amount for the total net income, rather than applying the larger amount. Therefore, the total net income is \$548. See Exhibit 1; BEM 536, pp. 1-7; and BEM 544, pp. 1-2.

Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 544, p. 1; RFT 240 (December 2013), p. 1; and RFT 200 (December 2013), pp. 1-2. In this case, the monthly PIL for an MA group of three (Claimant and her spouse (pregnant counts as two)) living in Wayne County is \$532 per month. RFT 200, pp. 1-2; RFT 240, p. 1; and see BEM 211, p. 2, which states for all Group 2 FIP-related MA to count a pregnant women as at least two members.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly net income exceeds the applicable PIL. BEM

135, p. 2 and BEM 545 (July 2013), p. 2. Because Claimant's spouse monthly total net income of \$548 exceeds the \$532 PIL by \$16, the Department acted in accordance with Department policy when it concluded that Claimant's spouse was eligible for MA coverage under the G2C program with a monthly deductible of \$16 effective February 1, 2014, ongoing.


DECISION AND ORDER

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 (i) did not act in accordance with Department policy when it improperly calculated Claimant's FAP benefits in the amount of \$567 effective February 1, 2014, ongoing; and (ii) acted in accordance with Department policy when it properly calculated Claimant's spouse MA – G2C deductible amount of \$16 effective February 1, 2014, ongoing.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's spouse MA – G2C deductible effective February 1, 2014, ongoing, and **REVERSED IN PART** with respect to the FAP allotment effective February 1, 2014, ongoing.

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. Begin recalculating Claimant's FAP budget for February 1, 2014, ongoing, including the spouse's medical deduction, in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from February 1, 2014, ongoing; and
3. Notify Claimant in writing of its FAP decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 12, 2014

Date Mailed: March 12, 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

EJF/tlf

cc:

