

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████████████████

Reg. No.: 2014 32757
Issue No(s): 3000, 2001
Case No.: 1 ██████████
Hearing Date: April 21, 2014
County: Wayne County DHS 18

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. ██████████ the Claimant's ██████████ appeared as an interpreter. ██████████, the claimant's ██████████ also appeared. Participants on behalf of the Department of Human Services (Department) included ██████████ Assistance Payments Worker, and ██████████ ██████████ Payments Supervisor.

ISSUE

Did the Department properly calculate the Medical Assistance Deductible amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for Medical Assistance on January 23, 2014 and was approved for Medical Assistance on January 1, 2013 subject to a deductible of ██████████
2. At the hearing, the Department conceded that the Deductible as calculated by the Department was incorrect because it did not properly compute the workers compensation benefits received as ██████████ weekly and it did not properly calculate the Claimant's income received from a rental unit.

3. The Claimant withdrew her request for hearing regarding the FAP group size as the Claimant's daughter has been added as a FAP group member as she is no longer in student status.
4. The Claimant requested a hearing on March 11, 2014 protesting the deductible amount and her FAP group size.

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, in this case the Department conceded at the hearing that the Claimant's deductible was incorrectly calculated. The Department incorrectly failed to include the correct worker's compensation received weekly as [REDACTED]. The Department also failed to verify the amount of rental income actually received as a result of rental of the property. As discussed at the hearing the Claimant is entitled to present expenses associated with the rental property per BEM 504 which provides:

Bridges counts the gross rent payment minus allowable expenses as income. Bridges allows expenses that are the **higher of**:

- 65% of the rental payment.
- Actual rental expenses if the landlord chooses to report and verify the expenses.

See Allowable Rental Expenses below.

ALLOWABLE RENTAL EXPENSES

When a landlord chooses to report actual expenses for in-home rental or other rental income, Bridges uses the following to determine what expenses are allowable and should be entered in Bridges.

Expenses must be the landlord's obligation and must solely be expenses of the rental property to be allowed. Allowable expenses may include:

- Real estate insurance.
- Repairs.
- Heat.
- Utilities.
- Property taxes.
- Lawn care.
- Snow removal.
- Furniture.
- Advertising for renters
- Interest and escrow portions of mortgage or land contract payment.

Bridges will **not** deduct expenses exceeding the gross rental income (a loss) from other types of income. BEM 504 pp. 3 and 4 (7/1/13)

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 the Claimant's Medical Assistance Deductible.

The Claimant's request for hearing regarding her Food Assistance group size is hereby withdrawn.

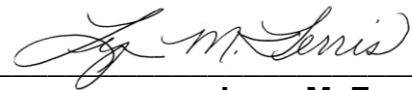
DECISION AND ORDER

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. The Department shall recalculate the Claimant's MA deductible in accordance with this Decision and shall determine the allowable expenses, if any associated with the Claimant's rental income property.
2. The Department shall seek verification for the rental expenses associated with the [REDACTED] rental income or if no verification is provided shall credit 65% of the rental income to expense as provided by Department policy.
3. The Department shall provide notice to the Claimant of the new deductible amount based upon the correct workers compensation and rental income as of January 1, 2014.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 22, 2014

Date Mailed: April 22, 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

2014-32757/LMF

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

LMF/tm

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