

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

IN THE MATTER OF:



Reg. No.: 14-005995
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: August 5, 2014
County: Menominee

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 August 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and his attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED]. Eligibility Specialist [REDACTED] observed but did not participate.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for October and November 2013?

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 FAP recipient.
2. Claimant has frequent medical expenses, which are incorporated into his FAP budget.
3. Claimant submitted various medical expenses during the months of September and October 2013. (Exhibit 1 Page 74.)
4. In two benefit notices issued July 8, 2014, the Department made manual adjustments to Claimant's FAP award to account for the reported medical expenses. (Exhibit 1 Pages 5-14 and 75-78.)
5. On June 23, 2014 the Department received Claimant's hearing request disputing the Department's action.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

BEM 554 describes the allowable expenses and the process for budgeting expenses when calculating FAP benefits. "Expenses are used from the same calendar month as the month for which you are determining benefits."

"Bridges converts all expenses (except one-time-only expenses the group does not wish to average) to a non-fluctuating monthly amount. The same conversion method is used to determine countable available income in BEM 505. Bridges will convert a(n):

"Weekly expense, multiply the average weekly expense by 4.3.

"Twice a month expense, multiply the average weekly expense by 2.

Every other week expense, multiply the average expense by 2.15.

Yearly expense, average the bill over 12 months beginning with the first billing of the year.

Quarterly expense, average the bill over three months.

Expense billed less often than monthly. Bridges will average the one-time-only expense over the balance of the benefit period or over the period of time the client has the responsibility to pay. The expense is allowed beginning with the first benefit month the change can affect.

For medical expenses, the Department is instructed to:

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 you have 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.

Example: Sally has a \$1,200 emergency room bill in 11/08. It is not covered by Medicaid or any medical insurance and she received the first bill for this service in 1/09. Her FAP benefit period is 10/1/08 through 9/30/2010. She can elect to use:

The entire \$1,200 deduction to affect 2/09 benefits. This would probably increase her FAP to the maximum amount for that one month.

\$150 per month (\$1,200 bill divided by 8 months remaining in the first 12 months of her benefit period) to affect 2/09 through 9/09. This would probably increase her FAP benefits by \$50 per month for eight months.

\$60 per month (\$1,200 bill divided by 20 months remaining in the benefit period) to affect 2/09 through 9/2010. This would probably increase her FAP benefits by \$20 for 20 months. (If she were within \$20 of the maximum, this option would benefit her the most.)

In BEM 554, following the heading, "Estimating and Determining an Allowable Medical Expense" it states:

"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.

Implicit in these conditions is that the bills have to be incurred time-proximate to the budget month. At page 12 of BEM 554, it describes the methods by which expenses can be verified.

Acceptable verification sources include, but are not limited to:

Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.

Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.

DHS-54A, Medical Needs, completed by a licensed health professional. SOLQ for Medicare premiums.

Written statements from licensed health care professionals. Collateral contact with the provider. (Most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

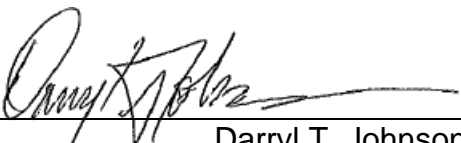
After the Department received verification of the expenses Claimant was claiming, it included them in his budget. Some expenses were reported in September 2013, and upon verification were incorporated into his October 2013 budget. Other expenses were reported in October 2013, and upon verification were incorporated into his November 2013 budget. The Department incorporated [REDACTED] in medical expenses in October (page 75) and [REDACTED] in November (page 77), and adjusted his FAP accordingly. See Exhibit 1, Page 5.

When the Department calculates a FAP budget it takes into account, among many other factors, the earned and unearned income the Claimant receives, and medical expenses. The Claimant did not dispute the amounts used by the Department in his budget. He just disputed when the medical expenses were incorporated into the budget. There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account his verified 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 acted in accordance with Department policy when it adjusted Claimant's FAP benefits after verifying his medical expenses.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **8/6/2014**

Date Mailed: **8/6/2014**

DTJ / jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

