

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

IN THE MATTER OF:

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

Reg. No.: 14-008137
Issue No.: 2007; 3008
Case No.: ██████████
Hearing Date: August 28, 2014
County: WAYNE-DISTRICT (18)

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 August 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Manager.

ISSUES

Did the Department properly calculate Claimant's Medical Assistance (MA) coverage under the Group 2 Caretaker Relatives (G2C) coverage with a monthly deductible?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective July 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 and MA benefits.
2. On or around September 9, 2013, Claimant submitted a State Emergency Relief (SER) application, in which she provided updated income information.
3. On or around June 27, 2014, Claimant submitted a redetermination with proofs.

4. On June 27, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were increased to \$29 effective July 1, 2014. See Exhibit 2, pp. 9-10.
5. On June 28, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (Determination Notice) advising her that, effective August 1, 2014, she would receive MA coverage with a monthly \$222 deductible. Exhibit 1, pp. 1-2.
6. On July 14, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$15 effective August 1, 2014. See Exhibit 2, pp. 21-22.
7. On July 16, 2014, Claimant filed a hearing request, protesting her FAP allotment and MA benefits. See Exhibit 2, pp. 2-3.

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.

MA deductible

As a preliminary matter, both parties appeared to agree that the deductible began in July 2014. However, the Determination Notice indicated that the monthly deductible began on August 1, 2014. See Exhibit 1, p. 1. Due to this contradiction, the Department was also supposed to send Claimant's MA Eligibility Summary to determine when the MA-G2C deductible began (Exhibit 1). But, Claimant's Eligibility Summary was never submitted subsequent to the hearing. As such, this Administrative Law

Judge (ALJ) will address Claimant's MA deductible effective July 1, 2014. See BAM 600 (July 2014), pp. 4-6.

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. 3. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 3. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 3 and see BEM 545.

In this case, Claimant is an ongoing recipient of MA-G2C benefits. On June 28, 2014, the Department sent Claimant a Determination Notice advising her that, effective August 1, 2014, she would receive MA coverage with a monthly \$222 deductible. Exhibit 1, pp. 1-2.

At the hearing, the Department testified that it appears Claimant's son's Supplemental Security Income (SSI) is being counted against the Head of the Household in error. See Exhibit 2, p. 1. The Department testified that a help desk ticket was submitted to address the MA-G2C deductible. See Exhibit 2, p. 1. Based on this information, the Department acknowledges that it improperly calculated Claimant's MA-G2C deductible due to the budgeting of the son's income.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's MA-G2C deductible effective July 1, 2014. The Department acknowledges that it improperly calculated Claimant's MA-G2C deductible due to the son's SSI being counted against the Head of the Household in error. See Exhibit 2, p. 1. As such, the Department will recalculate Claimant's MA-G2C deductible effective July 1, 2014 in accordance with Department policy. See BEM 135, pp. 1-3.

FAP benefits July 2014

As a preliminary matter, on June 27, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were increased to \$29 effective July 1, 2014. See Exhibit 2, pp. 9-10. Moreover, the Department testified that Claimant submitted her July (2014) FAP redetermination on June 27, 2014 with current proof of earned income for the month of June 2014. See Exhibit 2, p. 1. The Department testified that FAP benefits for July 2014 should have been \$15, but in order to allow timely notice, there was no issuance change. See Exhibit 2, p. 1. Furthermore, the FAP benefits decreased to \$15, effective August 1, 2014 and a subsequent Notice of Case Action was generated. See Exhibit 2, p. 1. The above information explains as to why Claimant received different FAP allotments for July and August of 2014. Each benefit month will be addressed below as Claimant disputes each allotment.

It was not disputed that the certified group size is two and that Claimant's son is a senior/disabled/disabled veteran (SDV) member. The Department presented the July 2014 FAP budget for review. See Exhibit 2, pp. 6-7. The budget indicated that Claimant's gross earned income was \$964. See Exhibit 2, p. 6.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

The Department testified that it calculated Claimant's gross earned income based upon an SER application submitted with pay stubs on September 9, 2013. It appeared that the Department continued to budget the same amount until the submitted redetermination in June 2014. The Department testified as to the pay stubs as follows: pay date of 8/21/13 with a gross income of \$392 and a pay date of 9/4/13 with a gross income of \$505.31. Converting the biweekly pay to a standard monthly amount results in an approximate standard amount of \$964. See BEM 505, pp. 7-8. Claimant did not dispute the pay stubs above and testified that she works 40 hours per pay period (biweekly) and is paid \$12.35 an hour. Based on the foregoing information, the Department properly calculated Claimant's gross earned income in accordance with Department policy.

Then, the Department calculated Claimant's son's unearned income at \$735 (\$721 – SSI plus \$14 monthly State SSI Payments (SSP), which Claimant did not dispute. See BEM 503 (January 2014), pp. 32-33 and Exhibit 2, pp. 13-16. The Department calculated a total income amount of \$1,699 (\$964 earned income plus \$735 unearned income). See Exhibit 2, p. 6.

The Department then applied the 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$964 is \$193, which results in a post earned income of \$1,506 (\$1,699 total income amount minus \$193 earned income deduction). See Exhibit 2, 6. The Department then applied the \$151 standard deduction applicable to Claimant's group size of two. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$151 standard deduction, this results in an adjusted gross income of \$1,355. See Exhibit 2, p. 6.

Additionally, for groups with SDV member(s), the Department uses excess shelter. See BEM 554 (May 2014), p. 1 and RFT 255, p. 1. The budget indicated that Claimant's monthly housing expense is \$420, which Claimant did not dispute. See Exhibit 2, p. 8. The Department gives a flat utility standard to all clients responsible for utility bills. BEM

554, pp. 14-15. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$973. See Exhibit 2, p. 8. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,355 adjusted gross income. Fifty percent of the adjusted gross income is \$677. See Exhibit 2, p. 8. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$296.

The Department then subtracts the \$296 excess shelter deduction from the \$1,355 adjusted gross income, which results in a net income of \$1,059. See Exhibit 2, p. 7. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$29 effective July 1, 2014. RFT 260 (December 2013), p. 14.

It should be noted that Claimant provided verification of rent increase to \$420 on June 24, 2014. See Exhibit 2, pp. 1 and 4. However, during the hearing, Claimant disputed that her rent changed to \$394 and that she reported it. Subsequently, both parties agreed that the reported change (shelter expenses) was processed, but that it would not affect benefits until September 2014. Thus, Claimant did not dispute her \$420 housing expenses for July or August 2014.

FAP benefits August 2014

On July 14, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were approved for \$15 effective August 1, 2014. See Exhibit 2, pp. 21-22.

It was not disputed that the certified group size is two and that Claimant's son is an SDV member. The Department presented the August 2014 FAP budget for review. See Exhibit 2, pp. 18-19. The budget indicated that Claimant's gross earned income was \$1,172. See Exhibit 2, p. 6.

The Department testified that it calculated Claimant's gross earned income based upon pay stubs submitted with the redetermination on June 27, 2014. See Exhibit 1, pp. 11-12. The Department testified as to the pay stubs as follows: pay date of 6/11/14 with a gross income of \$594.13 and a pay date of 6/25/14 with a gross income of \$496.13. See Exhibit 1, pp. 11-12. Converting the biweekly pay to a standard monthly amount, this results in an approximate standard amount of \$1,172. See BEM 505 (July 2014), pp. 7-8.

Then, the Department calculated Claimant's son's unearned income at \$662 (\$648.90 – SSI plus \$14 monthly SSP, which Claimant did not dispute. See BEM 503 (July 2014), pp. 32-33 and Exhibit 2, pp. 13-16. The Department calculated a total income amount of \$1,834 (\$1,172 earned income plus \$662 unearned income). See Exhibit 2, p. 18.

The Department then applied the 20 percent earned income deduction. BEM 550 (February 2014), p. 1. Twenty percent of \$1,172 is \$235, which results in a post earned income of \$1,599 (\$1,834 total income amount minus \$235 earned income deduction). See Exhibit 2, 18. The Department then applied the \$151 standard deduction applicable to Claimant's group size of two. RFT 255 (December 2013), p. 1. Once the Department subtracts the \$151 standard deduction, this results in an adjusted gross income of \$1,448. See Exhibit 2, p. 18.

Additionally, for groups with SDV member(s), the Department uses excess shelter. See BEM 554 (May 2014), p. 1 and RFT 255, p. 1. The budget indicated that Claimant's monthly housing expense is \$420, which Claimant did not dispute. See Exhibit 2, p. 20. The Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$973. See Exhibit 2, p. 20. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,448 adjusted gross income. Fifty percent of the adjusted gross income is \$724. See Exhibit 2, p. 20. When the Department subtracts the total shelter amount from fifty percent of the gross income, the excess shelter amount is found to be \$249.

The Department then subtracts the \$249 excess shelter deduction from the \$1,488 adjusted gross income, which results in a net income of \$1,199. See Exhibit 2, p. 19. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department properly determined that Claimant's FAP benefit issuance is found to be \$15 effective August 1, 2014. RFT 260, p. 16.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's MA-G2C deductible effective July 1, 2014 and acted in accordance with Department policy when it properly calculated Claimant's FAP benefits effective July and August of 2014.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to FAP benefits calculation effective July and August of 2014 and REVERSED IN PART with respect to MA-G2C deductible effective July 1, 2014.

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 the MA budget for July 1, 2014, ongoing, in accordance with Department policy;
2. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from July 1, 2014 ongoing; and
3. Notify Claimant of its MA decision in writing in accordance with Department policy.


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

Date Signed: **9/4/2014**

Date Mailed: **9/4/2014**

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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:

