

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

**IN THE MATTER OF:**



Reg. No.: 14-005317  
Issue No.: 3008, 2001  
Case No.: [REDACTED]  
Hearing Date: July 28, 2014  
County: WAYNE-41 (FORT WAYNE)

**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 July 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly calculate the Claimant's FAP budget for June 2014?

Did the Department properly impose a deductible for the Claimant's Medical Assistance (MA) group?

**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 was an ongoing recipient of FAP and Medical Assistance LIF.
2. The Department at the hearing indicated error when it imposed a [REDACTED] deductible with respect to the Claimant's MA benefits and prior to the hearing had removed the deductible.
3. The Claimant's income is fluctuating and was not previously considered by the Department at all.
4. The claimant does not receive any unearned income or child support.

5. The Claimant requested a hearing on June 17, 2014 protesting the imposition of a deductible on her MA case and reduction of her FAP benefits.

### **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.

Additionally, in this case the Department conceded that its action imposing a [REDACTED] deductible on Claimant's Medical Assistance was an error and removed the Deductible prior to the hearing.

As regards the Claimant's FAP benefits, the Department found a discrepancy regarding its calculation of FAP benefits due to its failure to include income and earnings received by the Claimant and reported by her. At the hearing, the FAP budget for June 2014 was reviewed and was determined to be incorrect for several reasons. Although the income was correct based upon the check stubs provided, the Department should have prospectively the income as the Claimant's hours of employment fluctuate monthly. The Department did not prospectively income and used a month of check stubs for a period where the Claimant worked an unusual amount of hours, well above the average. BEM 505 requires in situations such as the Claimant's where income fluctuates the following:

#### ***Irregular Income***

For irregular income, determine the standard monthly amount by adding the amounts entered together and dividing by the number of months used.

Bridges will convert or average income automatically, when appropriate, based on the information you enter about the income. BEM 505 pp. 9 (7/1/14)

- Use income from the **past 60 or 90 days** for fluctuating or irregular income, if:
  - The past 30 days is not a good indicator of future income, and
  - The fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.
  - The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested.
  - If there is a change in expected hours, but no change in the rate of pay, use the expected hours times the rate of pay to determine the amount to budget per pay period. BEM 505 pp. 5-6.

In addition, the Department could not determine the source of the [REDACTED] in unearned income used in the June 2014 FAP budget and, thus, it is determined that the FAP budget as calculated for June 2014 is incorrect and must be recalculated.

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 did not properly prospect the Claimant's fluctuating income.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it included unexplained unearned income.

### **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 determine the Claimant's earned income and shall prospect the income using the last 60-90 days of pay stub information.
2. The Department shall determine the source of the unearned income used to calculate the unearned income, if any is found, accordingly.
3. The Department shall issue a FAP supplement to the Claimant if any is due in accordance with Department policy.
4. The Department shall notify the Claimant of its determination of her FAP benefit allotment as determined in accordance with this Decision and Order.
5. The Claimant's request for hearing regarding the imposition by the Department of a MA deductible is DISMISSED, as prior to the hearing the deductible was removed.



**LYNN M. FERRIS**

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

Date Signed: **8/5/2014**

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

LMF/tm

**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:

