

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

IN THE MATTER OF:

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Reg. No.: 14-007699
Issue No.: 2001; 3008
Case No.: ██████████
Hearing Date: August 25, 2014
County: Wayne-District 35

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearings Facilitator.

ISSUE

Did the Department properly provide Claimant with Medical Assistance (MA) coverage subject to a monthly \$376 deductible?

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits effective August 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 disabled and receives monthly Retirement, Survivors and Disability Insurance (RSDI) income.
2. Claimant lives with her minor child.
3. In connection with Claimant's MA redetermination, the Department became aware that Claimant was no longer responsible for her Part B Medicare premium and that there was a slight increase in her household's income.

4. On July 2, 2014, the Department sent Claimant a Notice of Case Action notifying her that effective August 1, 2014, her monthly FAP benefits were decreasing to \$57.
5. On July 2, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (HCCD Notice) notifying her that she was eligible for MA subject to a \$376 monthly deductible.
6. On July 9, 2014, Claimant filed a request for hearing disputing the Department's actions.

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).

FAP Calculation

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 July 2, 2014 Notice of Case Action notified Claimant that effective August 1, 2014, her monthly FAP benefits were decreasing to \$57. Claimant disputed the Department's calculation of her FAP allotment.

The Department provided a net income budget showing the calculation of FAP benefits for August 1, 2014 ongoing that was reviewed with Claimant at the hearing. Claimant confirmed that she received monthly RSDI income of \$1011 and monthly child support income of \$144 and her son received monthly RSDI income of \$531. The total of all this unearned income is \$1686, consistent with the figure on the budget. Claimant and her son are the two members of Claimant's FAP group. The Department confirmed that Claimant is disabled. As such, she is a senior/disabled/veteran (SDV) member of her FAP group. BEM 550 (February 2014), pp. 1-2.

Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.

- Medical expenses for the SDV member(s) that exceed \$35
- An earned income deduction equal to 20% of any earned income.

BEM 554 (May 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and confirmed that she had no dependent care or child support expenses. Because the Department established that the State paid Claimant's Part B Medicare premium and Claimant acknowledged that she had not verified to the Department any out-of-pocket medical expenses in excess of \$35, she was not eligible for a medical expense deduction. Under the evidence presented, the only deductions to income Claimant was eligible to receive were a standard deduction of \$151 based on her two-person group size and an excess shelter deduction. Based on Claimant's confirmed monthly housing expenses of \$785 and a \$553 heat and utility standard, the most favorable standard available to a FAP client, Claimant was eligible for an excess shelter deduction of \$571. RFT 255 (December 2013), p. 1; BEM 554, pp. 1, 12-15; BEM 556, p. 4.

A review of Claimant's FAP budget, based on the information available to the Department at the time the budget was prepared, shows that the Department properly reduced Claimant's gross income of \$1686 by the \$151 standard deduction and the \$517 excess shelter deduction, resulting in monthly net income of \$964. Based on net income of \$964 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$57. BEM 556; RFT 260 (December 2013), p. 13.

MA Eligibility

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.

Claimant was also concerned about her MA eligibility. The Department concluded that Claimant was eligible for MA coverage under the Group 2 Caretaker/Relative (G2C) program subject to a monthly \$376 deductible. Because the Department acknowledged that Claimant was disabled, the Department was asked whether it also considered Claimant's income eligibility for full-coverage MA under the AD-Care program and testified that it concluded that she had excess income for coverage under that program.

In calculating a client's MA income eligibility, the Department must calculate the client's net income. BEM 530 (January 2014), p. 2. In this case, the Department testified that it relied on Claimant's RSDI and the child support the household receives in calculating her net income. The Department properly considered the gross monthly RSDI benefits received by Claimant. BEM 503 (July 2014), p. 28. However, child support is income to

the **child** for whom the support is paid. BEM 503, p. 6. Therefore, to the extent the Department included the child support in the calculation of Claimant's income eligibility for MA, the Department did not act in accordance with Department policy.

Under Department policy, to calculate net income, Claimant's RSDI income is reduced by a \$20 disregard. BEM 541 (January 2014), p. 3. In this case, Claimant's \$1011 RSDI income reduced by the \$20 disregard results in net income for MA purposes of \$991. Effective April 1, 2014, the net income limit for MA coverage under the AD-Care program, which is a full-coverage program for disabled persons, is \$993. BEM 163 (July 2013), p. 2; RFT 242 (April 2014), p. 1. When persons qualify under more than one MA category, federal law gives them the right to the most beneficial category, which is the one that results in the least amount of excess income. BEM 105 (January 2014), p. 2. Because Claimant, who the Department acknowledged is disabled, is income-eligible for MA coverage under the AD-Care program, a full-coverage MA program, the Department did not act in accordance with Department policy when it provided MA coverage to Claimant subject to a deductible.

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 calculated Claimant's monthly FAP benefits but did not act in accordance with Department policy when it concluded Claimant was eligible for MA subject to a deductible.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to calculating Claimant's monthly FAP benefits and **REVERSED IN PART** with respect to determining her MA eligibility.

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. Provide Claimant with MA coverage under the AD-Care program effective August 1, 2014 ongoing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/28/2014**

Date Mailed: **8/29/2014**

ACE / tlf

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

