

3. On May 16, 2014, the Department sent Claimant (i) a Verification Checklist (VCL) requesting, among other things, verification of her property taxes by May 27, 2014 and (ii) a SER Decision Notice notifying her that her application for heat and electrical assistance was denied because she did not have an emergency.
4. On May 30, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for \$11 in FAP benefits for May 8, 2014, to May 31, 2014, and \$15 for monthly FAP benefits for June 1, 2014, ongoing.
5. On June 1, 2014, the Department received the requested property tax verification.
6. On June 11, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits had increased to \$16 monthly for July 1, 2014, ongoing.
7. On July 31, 2014, Claimant filed a request for hearing disputing the Department's actions concerning her MA and FAP cases and her SER application.

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.

Claimant requested a hearing to dispute the calculation of her monthly FAP benefits. By the time Claimant requested her hearing on July 31, 2013, the Department had issued (i) the May 30, 2014, Notice of Case Action notifying her that her FAP benefits for May 8, 2014, to May 31, 2014, were \$11 and her June 2014 ongoing monthly FAP benefits were \$15 and (ii) the June 11, 2014, Notice of Case Action increasing her monthly FAP benefits to \$16 effective July 1, 2014.

The Department provided a FAP net income budget for June 2014 that was reviewed with Claimant at the hearing. Claimant verified that she received monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$1,117, as shown on the budget, and that she was the only member of her FAP group.

The deductions to income were also reviewed. Based on her age, Claimant is a senior/disabled/veteran (SDV) member of her group. See BEM 550 (February 2014), p.

1. For groups with one or more SDV members, the following deductions are available from the group's total income:

- Standard deduction.
- 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.

BEM 554 (May 2014), p. 1.

Claimant confirmed that she had no day care or child support expenses. Under the circumstances presented, Claimant was eligible for the following deductions from her unearned income: (i) the standard deduction of \$151 based on her single-member FAP group size; (ii) a medical deduction for verified, out-of-pocket medical expenses over \$35, which the budget in this case showed as \$75 and Claimant did not dispute; (iii) an excess shelter deduction that takes into consideration Claimant's monthly housing expenses and, as shown on the Notice of Case Action, a heat and utility standard of \$553, the most beneficial utility standard applicable in a FAP case. BEM 554, pp. 1, 8-19; RFT 255 (December 2013), p. 1.

The initial budget prepared shows no housing expenses. The Department explained that Claimant did not timely respond to the VCL requesting property tax verification by May 27, 2014. Because Claimant did not verify her shelter expenses by the VCL due date, the Department properly excluded that expense from the calculation of her excess shelter deduction. BEM 554, p. 14.

A review of the June 2014 FAP budget shows that the Department calculated Claimant's net income of \$783 in accordance with Department policy. See BEM 556 (July 2013), pp. 2-7. Based on a FAP group size of one and net income of \$783, Claimant was eligible for \$15 in monthly FAP benefits in June 2014 (and \$11 for the prorated period of May 8, 2014, when Claimant applied, to May 31, 2014). RFT 260 (December 2013), p. 10; BAM 115 (March 2014), p. 25.

At the hearing, the Department acknowledged receiving the shelter expenses on June 1, 2014, after the May 27, 2014, VCL due date and after the May 30, 2014, Notice of Case Action approving Claimant's application. Claimant testified that she submitted proof of her property taxes but was unable to dispute the Department's testimony concerning the date verification was provided. The Department testified that the \$209.49 monthly expense for property taxes (based on the verified annual expense of \$2,513.86 divided by 12) was applied to Claimant's FAP budget for July 1, 2014, ongoing. Based on its receipt of the property tax verification on June 1, 2014, the Department properly applied the shelter expense to affect the July 2014 FAP budget.

BAM 220 (January 2014), pp. 9-10. The July 2014 FAP net income budget shows that \$209.49 was used as shelter expenses in calculating Claimant's excess shelter deduction. A review of that budget shows that Claimant's monthly net income was \$574 as of July 2014. Based on a FAP group size of one and net income of \$574, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for \$16 in monthly FAP benefits for July 2014 ongoing. RFT 260, p. 8.

Therefore, the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits for May 8, 2014, ongoing.

MA Deductible

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 disputed the Department's calculation of her monthly MA deductible.

In determining a client's net income for MA purposes, the Department considers the gross monthly RSDI benefits received by the client. BEM 503 (January 2014 and July 2014), p. 28; BEM 530 (January 2014), p. 2. This unearned income is reduced by a \$20 disregard. BEM 541 (January 2014), p. 3. In this case, Claimant's RSDI income is \$1,117. Claimant's gross RSDI income reduced by \$20 results in net income for MA purposes of \$1,097.

Based on her net income, Claimant was not eligible for full-MA coverage under the AD-Care program. BEM 163 (July 2013), p. 2; RFT 242 (April 2014), p. 1. Clients who are ineligible for full-coverage MA coverage because of excess income are eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL), which is provided in policy and is based on the client's shelter area and fiscal group size. BEM 105 (January 2014), p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Claimant's position, with an MA fiscal group size of one living in Wayne County, is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Claimant's net income (less allowable needs deductions) is in excess of \$375, she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$375. BEM 545 (July 2013), p. 2.

In this case, the Department presented an SSI-related MA budget showing the calculation of Claimant's deductible. As discussed above, Claimant's net income for MA purposes is \$1,097. The evidence at the hearing established that Claimant was not eligible for any needs deductions. See BEM 544, pp. 1-2. Because Claimant's net income of \$1,097 exceeded the applicable \$375 PIL by \$722, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for MA coverage subject to a monthly \$722 deductible.

SER Denial

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

As a preliminary matter, it is noted that, in response to Claimant's July 31, 2014, request for hearing concerning her SER eligibility, in its hearing summary the Department focused on its denial of Claimant's July 31, 2014, SER application for assistance with electric, water and property taxes. Although the denial of that application was discussed on the record, because the Department did not issue a decision concerning that application until August 5, 2014, after Claimant's July 31, 2014, request for hearing, Claimant was not an aggrieved party with respect to the July 31, 2014, SER application at the time of her hearing request. Therefore, the Department's August 6, 2014, SER Decision Notice is not properly presented for hearing. Mich Admin Code, R 400.903. Claimant is advised that she may request a hearing with respect to the Department's August 5, 2014, SER Decision Notice in accordance with Department policy.

Claimant indicated that she had filed multiple SER applications that the Department denied. A client's request for hearing is timely with respect only if it is filed within 90 days of the date of a notice of case action issued by the Department advising a client of a negative action. ERM 404 (March 2013), p. 1; BAM 600 (July 2014), p. 6. Because Claimant filed a request for hearing on July 31, 2014, the Department was asked to identify all SER decision notices issued by the Department within the 90 days before July 31, 2014, in response to Claimant's SER applications. The Department testified that a SER Decision Notice was issued on May 16, 2014, in response to Claimant's May 8, 2014, SER application for assistance with heat and electric.

The May 16, 2014, SER Decision Notice denied Claimant's May 8, 2014, SER application for energy services (heat and electric) assistance because Claimant did not have an emergency. Department policy provides that SER payment may be authorized to an enrolled provider when the SER group's heat or electric service for the current residence is (i) **in past due status**, (ii) in threat of shutoff or (iii) already shut off and must be restored. ERM 301 (October 2013), p. 1 (emphasis added). The Department may authorize payment to a client's heat or electric service provider in a minimum amount necessary to prevent shutoff or restore service, up to the fiscal year cap. ERM

301, p 1. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, p. 1.

In this case, the Department explained that Claimant's services were denied because she was not in shut-off status. The Department was able to access Claimant's DTE bill for payment due on May 13, 2014. The bill showed that Claimant was enrolled in a Shutoff Protection Plan (SSP) and she owed a total of \$431, \$199 of which was a past due payment and \$232 which was her current SSP payment. Because Claimant had a past due amount, she was eligible for SER assistance under ERM 301. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's May 8, 2014, SER application.

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 FAP benefits for May 8, 2014, ongoing and her MA deductible but did not act in accordance with Department policy when it denied her May 8, 2014, SER application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the calculation of Claimant's FAP benefits and her MA deductible and REVERSED IN PART with respect to denial of her May 8, 2014 SER application.

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. Reregister and reprocess Claimant's May 8, 2014, SER application;
2. Pay Claimant's provider for SER benefits Claimant is eligible to receive, if any;
3. Notify Claimant in writing of its decision.



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

Date Signed: **10/13/2014**

