

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

IN THE MATTER OF:

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

Reg. No.: 14-013823
Issue No.: 2001, 3008
Case No.: ██████████
Hearing Date: January 22, 2015
County: WAYNE-82 (Adult Medical)

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 January 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine the Claimant's FAP benefit allotment correctly?

Did the Department properly determine the deductibles for the Claimant and her child for Group 2 Medical Assistance?

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's Food Assistance was reduced.
2. On October 1, 2014, the Department issued a Health Care Coverage Determination Notice. As a result of the Notice, the Department imposed a deductible amount for Medical Assistance for the Claimant of ██████████ and a deductible amount for the Claimant's daughter of ██████████. The deductibles were effective September 1, 2014. Exhibit 1

3. The Claimant was employed and provided the Department two pay stubs for August and September 2014, that totaled [REDACTED]. This earned income was used to compute the Claimant's and her daughter's medical deductible. Exhibit 2
4. The Claimant requested a hearing on October 8, 2014 protesting the deductible assessed by the Department for Medical Assistance and the reduction of her Food Assistance.

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 Claimant clearly noted on her hearing request received October 8, 2014, that the request was a request for hearing regarding the amount of her Food Assistance Benefits. At the hearing, the caseworker handling the matter was not present, nor was the Department representative who was present prepared to proceed with the case, and there was no evidence presented or made available to be reviewed. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Claimant's Food Assistance allotment.

As regards the medical deductibles applied to the Claimant and her dependent child, the Department presented two budgets for both the child and the Claimant. Exhibit 4 and Exhibit 5. Policy regarding the calculation of these deductibles is governed by BEM 536 and is determined by the multi-step formula which differs when computing the adult member and the child member deductible.

BEM 536 provides:

A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member when determining a deductible.

Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536 (1/1/14) p. 1.

A review of the Claimant's (adult) budget was reviewed by the undersigned after the hearing as the Department could not explain the steps required to explain the calculations necessary to determine the deductible. The first determination which must be made is to determine both the adult's share of the adult's income, and secondly the adults prorated income. The monthly gross income used by the Department was \$1[REDACTED] which was the correct amount based upon the pay stubs provided. The first step requires that [REDACTED] be deducted from the gross income of [REDACTED]. The policy also allows for a dependent care deduction which was not included in the budget, and thus upon review, the Department should review with the Claimant whether she has child care expense that otherwise meet the requirements of BEM 536.

The BEM 536 deductible formula next requires that the Total Net Income of the adult be determined. The Claimant has one dependent and a prorate divisor is then determined by adding the number of dependents to 2.9, which equals 3.9. The amount of income left after deductions referenced in the above paragraph, [REDACTED] is then divided by 3.9 and equals [REDACTED] (adult's prorated income). This is how the adult's prorated income is determined and is correct as presented in the budget. The next step requires that if an adult has a dependent child as is the case in Claimant's facts, the adults prorated income [REDACTED] is then multiplied by 2.9 [REDACTED] calculation results in the final amount of Total Net Income. The Total Net Income is the income which is used to determine the deductible. Each county in Michigan has a protected income limit to determine the Group 2 deductibles. The protected income limit for Wayne County for a group of 1 individual, (Claimant) is [REDACTED]5. RFT 240, (12/1/13) p. 1. The protected income level is then subtracted from the Total Net income to determine the deductible. (\$[REDACTED]). The Department based upon the above calculations correctly determined the Claimant's remaining deductible. BEM 536 p. 1-5.

A multiple step formula is also done to determine the dependent child's deductible which is determined by the Group 2 Under 21 and Caretaker Relative. A child's fiscal groups net income is the total of the following: the Child or Adult's prorated income as determined above to be \$[REDACTED], because there is one parent in the fiscal group which equals [REDACTED] [REDACTED] \$[REDACTED] is the mother's and child's share of mother's income and the Total Net income. In this case, the child's group size is 2 (child and mother) and the protected income level for Wayne County for this group size of two is [REDACTED]. Thus the deductible is determined by subtracting the protected income level from the Total Net income ([REDACTED]). BEM 536 p. 6, Exhibit 5. Thus, based upon this review of the Department's calculations, the child's deductible as determined by the Department is also correct.

Upon further review of this matter it appears that the Claimant and her child may be eligible for medical assistance without a deductible. Although the Department presented no evidence that MAGI related programs were considered, it is determined that such programs (Group 1) should have been considered.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. The Department policy further instructs when considering Medical Assistance eligibility, all the MA category options in must be considered for the client's right of choice to be reasonable. BEM 105 (1/1/14) p.2

The Claimant as a mother may be eligible for Healthy Michigan Plan (MAGI) (HMP), and the child may be eligible for Under 19 MAGI related program. The Department policy indicates a Child is eligible if the gross income for the group of two does not exceed 160% of the Federal Poverty Level for a group of two (██████████). A Parent caretaker would be eligible if the gross income for the group of two did not exceed 133% of the Federal Poverty Level. The gross monthly income is \$██████████ which is the groups gross income. ██████████ represents 160% of the poverty level income for the child and \$██████████ is the poverty level income for the Claimant. Based upon these calculations, neither child nor Claimant's gross income of ██████████ exceeds the poverty limits for either individual based upon the applicable poverty levels; thus the Department must further review the Claimant's and her child's eligibility for these programs. See Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, (5/28/14) Section 1.2, pp 1.

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 the Group 2 deductibles for the Claimant and her Child.

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 consider whether the Claimant and her daughter were eligible for MAGI related programs Healthy Michigan Plan and Under 19 MAGI related policy respectively.

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 proof and showing that it acted in accordance with Department policy when it presented no evidence to demonstrate that it properly calculated the Claimant's Food Assistance benefits and properly reduced those benefits.

DECISION AND ORDER

Accordingly, the Department's decision is

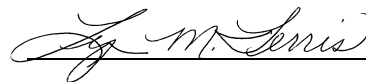
AFFIRMED as to the calculation of the deductibles for Group 2 medical assistance.

REVERSED as regard the Claimant's FAP benefit amounts and FAP reduction having failed to meet its burden of proof.

REVERSED as the Department did not demonstrate that the Group 2 deductible Medical Assistance benefits were the most beneficial medical assistance program category, and whether it considered Group 1 programs HMP and Under 19 MAGI related programs.

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 is ordered to recalculate the Claimant's FAP benefits and redetermine the amount of the FAP benefits again.
2. The Department is ordered to issue a FAP supplement to the Claimant if otherwise entitled to receive a supplement in accordance with Department Policy.
3. The Department is ordered to determine if the Claimant and her daughter are eligible for HMP (Claimant) and Under 19 MAGI (child).



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]