

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-10519
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED] and his attorney, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED].

ISSUE

Did the Department properly account for Claimant's medical expenses when calculating his Food Assistance Program (FAP) benefits?

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 on-going FAP recipient.
2. Claimant has incurred medical expenses from 2011 through 2013.
3. Claimant is a "Senior, Disabled, Veteran" (SDV) person.
4. The Department has calculated Claimant's FAP without considering the medical expenses Claimant believes should be included in establishing his budget.
5. On October 8, 2013 Claimant requested a hearing.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

In the instant case, the Claimant incurred medical expenses in 2011 when he had a dental procedure. Before the dentist would perform the procedure, it required Claimant to pay for the expense. Claimant pre-paid for the services using a credit card known as "Care Credit" which provided interest-free credit for a limited period. Claimant testified that he thinks he called the Department at the time to tell them he had paid for the bill, but he could not provide a date, and he indicated he had not submitted any documentation to the Department. After making payments to Care Card for a lengthy period, the interest-free feature was discontinued and Claimant transferred the remaining debt to another credit card. He continues to make monthly payments and believes the Department should include those payments when calculating his FAP budget. In 2013 Claimant incurred more medical expenses.

BEM 554 describes the allowable expenses and the process for budgeting expenses when calculating FAP benefits. "Expenses are used from the same calendar month as the month for which you are determining benefits."

"Bridges converts all expenses (except one-time-only expenses the group does not wish to average) to a non-fluctuating monthly amount.

The same conversion method is used to determine countable available income in BEM 505. Bridges will convert a(n):

"Weekly expense, multiply the average weekly expense by 4.3.

"Twice a month expense, multiply the average weekly expense by 2.

Every other week expense, multiply the average expense by 2.15.

Yearly expense, average the bill over 12 months beginning with the first billing of the year.

Quarterly expense, average the bill over three months.

Expense billed less often than monthly. Bridges will average the one-time-only expense over the balance of the benefit period or over the period of time the client has the responsibility to pay. The expense is allowed beginning with the first benefit month the change can affect.

For medical expenses, the Department is instructed to:

Consider **only** the medical expenses of SD/V persons in the eligible group or SDV persons disqualified for certain reasons; see Expenses for Disqualified or Ineligible Persons in this item. Estimate an SDV person's medical expenses for the benefit period. Base the estimate on all of the following:

Verified allowable medical expenses.

Available information about the SD/V member's medical condition and health insurance.

Changes that can reasonably be anticipated to occur during the benefit period.

During the Benefit Period

A FAP group is not required to, but may voluntarily report changes during the benefit period. Process changes during the benefit period **only** if they are one of the following:

Voluntarily reported and verified during the benefit period such as expenses reported and verified for MA deductible.

Reported by another source and you have sufficient information and verification to determine the allowable amount without contacting the FAP group.

One-Time-Only Expenses

Groups that do not have a 24-month benefit period may choose to budget a one-time-only medical expense for one month or average it over the balance of the benefit period. Bridges will allow the expense in the first benefit month the change can affect.

Exception: Groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. Budget it for one month.
2. Average it over the remainder of the first 12 months of the benefit period.
3. Average it over the remainder of the 24-month benefit period.

Example: Sally has a \$1,200 emergency room bill in 11/08. It is not covered by Medicaid or any medical insurance and she received the first bill for this service in 1/09. Her FAP benefit period is 10/1/08 through 9/30/2010. She can elect to use:

The entire \$1,200 deduction to affect 2/09 benefits. This would probably increase her FAP to the maximum amount for that one month.

\$150 per month (\$1,200 bill divided by 8 months remaining in the first 12 months of her benefit period) to affect 2/09 through 9/09. This would probably increase her FAP benefits by \$50 per month for eight months.

\$60 per month (\$1,200 bill divided by 20 months remaining in the benefit period) to affect 2/09 through 9/2010. This would probably increase her FAP benefits by \$20 for 20 months. (If she were within \$20 of the maximum, this option would benefit her the most.)

Dental expenses are allowable. The fundamental issue to be resolved is whether the Department can include in the budget payments made for medical expenses incurred more than two years ago, the cost of which was put on a credit card, and then put on another credit card. Guidance is found at page 11 of BEM 554. Following the heading, "Estimating and Determining an Allowable Medical Expense" it states:

"Estimate an SDV person's medical expenses for the benefit period. The expense does not have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow only the non-reimbursable portion of a medical expense. The medical bill cannot be overdue.

The medical bill is not overdue if one of the following conditions exists:

Currently incurred (for example, in the same month, ongoing, etc.).

Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).

Client made a payment arrangement before the medical bill became overdue.

Implicit in these conditions is that the bills have to be incurred time-proximate to the budget month. In this case, the Claimant incurred the dental bill more than two years ago. It does not meet the first condition of "currently incurred." The Claimant has been receiving monthly bills from the creditors for more than two years, so he is not "receiving the bill for the first time for a medical expense provided earlier". Perhaps an argument might be made that the Claimant made a payment arrangement before the bill became overdue, inasmuch as he put the costs on a credit card. That argument does not find support when consideration is given to the instructions for verifying an expense. At page 12 of BEM 554, it describes the methods by which expenses can be verified.

Acceptable verification sources include, but are not limited to:

Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.

Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.

DHS-54A, Medical Needs, completed by a licensed health professional. SOLQ for Medicare premiums.

Written statements from licensed health care professionals.
Collateral contact with the provider. (Most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

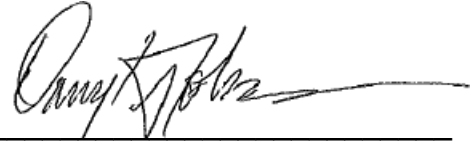
Again, the Department is instructed to look to health care providers themselves, insurers, and other similar sources, and the verification is in the scope of current bills. There is no evidence that a health care provider or insurer is able to verify the amount that Claimant is paying on a credit card each month toward past medical expenses.

In conclusion, Department policy does not support a practice that would allow the inclusion of expenses that have been incurred in prior years and currently being paid to a third-party creditor.

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 excluded Claimant's payments toward prior years' medical expenses when calculating his FAP budget.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 10, 2014

Date Mailed: January 10, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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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

DTJ/las

cc:

