

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-25541
Issue No(s): 1000, 2001, 3000
Case No.: [REDACTED]
Hearing Date: February 27
County: Macomb-20

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 February 27, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialists [REDACTED] and [REDACTED].

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) and her Medical Assistance (MA) deductible?

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 was an on-going recipient of Financial Independence Program (FIP – cash assistance), FAP and MA benefits.
2. On July 3, 2013, ALJ [REDACTED] conducted a hearing regarding Claimant's FIP, FAP, and MA benefits.
3. On July 12, 2013, in Reg. No. 2013-51611, ALJ [REDACTED] issued a decision finding the Department had properly determined Claimant's MA deductible, properly determined her FAP, and properly processed her application for State Emergency Relief (SER) benefits. See Exhibit 1 Pages 6-10.
4. At the time of ALJ [REDACTED] Decision, Claimant belonged to a group of five, and she still belongs to a group of five.

5. The only changes in Claimant's circumstances since the July 2013 hearing are that Claimant is now paying for Medicaid premiums out of her Supplemental Security Income, and they are paying MA deductibles.
6. On December 4, 2013 the Department mailed Claimant a Notice of Case Action (NCA) informing her that she and her spouse would be required to pay a deductible of [REDACTED] beginning October 1, 2013, up from a [REDACTED] deductible in September 2013.
7. On December 4, 2013 the Claimant requested a hearing on the issues of FIP and MA. Exhibit 1 Page 3.
8. On December 17, 2014, the Claimant requested a hearing on the issues of MA and CDC, and arguably on the issue of FAP. Exhibit 1 Page 4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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 by Michigan Admin Code, R 400.7001 through R 400.7049.

As a preliminary matter, the Claimant checked the box on her second hearing request indicating she wanted a hearing on CDC. Inasmuch as there is no evidence that Claimant was receiving, or had even applied for CDC, there is no justiciable issue to be heard regarding CDC. Claimant also checked the box for "a amount of benefits" in the row for Food Assistance so it is presumed that Claimant intended to request a hearing on FAP. She is receiving FIP but there is nothing in the record to reflect any adverse action regarding her FIP. Lastly, she also requested a hearing on MA.

ALJ ██████ noted in her decision that "if Claimant incurs medical expenses of \$ ██████ during any month, they may then be eligible for MA benefits. Claimant argues that the family is unable to pay the deductible per month because of limited means. While the undersigned does sympathize with the Claimant's situation, there is no jurisdiction to change or alter Department policy or state law. Therefore, I find the Department established it acted in accordance with policy with regards to the MA deductible determination."

In the December 17, 2013 NCA (Exhibit 1 Pages 11-21) the Department established: MA deductibles of \$ ██████ for Claimant and her spouse; MA deductibles of \$0.00 for three children in the group; and FAP of ██████ per month effective December 1, 2013.

The Department provided testimony supporting the income reflected in the budget. The only challenge made to the reported income was that Claimant was paying out of her SSI for Medicaid premiums. The Department uses the gross amount of unearned income rather than the net.

There is no evidence that the Department erred in its calculation of Claimant's FAP benefits or in establishing her MA deductible after taking into account the group's income and group size.

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 established Claimant's FAP benefits and calculated her monthly MA deductible.

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: February 28, 2014

Date Mailed: February 28, 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:

