

**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.: 14-012271
Issue No.: 2007; 3007; 3008; 5000
Case No.: ██████████
Hearing Date: December 10, 2014
County: Wayne-District 19

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 December 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist, and ██████████ ██████████, Family Independence Manager.

ISSUE

Did the Department properly determine that Claimant was eligible for Medical Assistance (MA) coverage subject to a monthly deductible?

Did the Department properly calculate Claimant's monthly Food Assistance Program (FAP) allotment?

Did the Department properly comply with the FAP decision rendered in connection with a May 2, 2013 hearing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On May 2, 2013, Administrative Law Judge Jan Leventer issued a Settlement Order finding that Claimant was in compliance with her child support reporting obligations as of May 2, 2013 and ordering the Department to determine Claimant's eligibility for MA benefits.
2. As of the hearing date, Claimant was an ongoing recipient of MA and FAP benefits.

3. Claimant receives MA under the Group 2 Caretaker (G2C) program subject to a monthly deductible, which was \$239 until October 1, 2014 when it increased to \$452.
4. Claimant was notified of decreased FAP benefits effective October 1, 2014.
5. On September 15, 2014, Claimant requested a hearing disputing the Department's actions concerning her FAP and MA cases and her State Emergency Relief (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).

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.

Claimant requested a hearing concerning her FAP and MA cases and the denial of her SER application. At the hearing, she testified that she understood the Department's actions concerning her SER application and agreed to withdraw her hearing request concerning the SER issue. Therefore, the hearing proceeded to address only the FAP and MA issues.

MA Case

Claimant requested a hearing disputing the Department's calculation of her monthly MA deductible, which was \$239 until October 1, 2014, when it increased to \$452.

The evidence at the hearing established that Claimant was receiving MA coverage under the G2C program as the caregiver of a minor child. The Department did not

present any budget showing the calculation of Claimant's MA deductible under the G2C program but testified that the deductible was based on Claimant's monthly income of \$1100. Claimant testified that her only income was her monthly Retirement, Survivors and Disability Income (RSDI) benefits, which the SOLQ showed was \$840 monthly. The Department could not provide any information concerning the basis for the additional income being budgeted into Claimant's MA eligibility. It is noted that Claimant's FAP program only referenced Claimant's monthly RSDI income for the household's income. Because the Department failed to identify any income for Claimant other than RSDI, the Department has failed to satisfy its burden of showing that it calculated Claimant's MA deductible in accordance with Department policy.

Furthermore, a disabled individual who is the sole fiscal member of her MA group and has monthly net income less than \$993 is eligible for full coverage MA under the Ad-Care program, an SSI-related MA program. BEM 163, pp. 1-2; RFT 242 (October 2014). In this case, the Department acknowledged that Claimant was disabled. Claimant is the sole fiscal group member for purposes of SSI-related MA. BEM 211 (January 2015), p. 5. Claimant testified that her only income was her monthly RSDI of \$840. Under this evidence, Claimant would be eligible for full-coverage MA under the Ad-Care program. Department policy provides that a client who qualifies for MA under more than one category is eligible for MA under the most beneficial category. BEM 105 (October 2014), p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. Therefore, the Department must consider Claimant's eligibility for full-coverage MA under the Ad-Care program when it recalculates her MA eligibility.

FAP Calculation

The Department did not address Claimant's FAP concerns in its hearing summary and did not present any evidence in its hearing packet concerning Claimant's FAP case. The Department testified that, effective October 1, 2014, Claimant was eligible for \$511 in monthly FAP benefits. \$511 is the maximum FAP allotment available to a FAP group with three members. RFT 260 (October 2014), p. 1. However, the FAP budget the Department presented in support of its calculation of Claimant's FAP benefits showed that it was used for January 2015 benefits. The Department did not provide a Notice of Case Action showing the FAP benefits issued to Claimant and, despite being given the opportunity, did not present an eligibility summary showing FAP benefits issued to Claimant. Therefore, the Department failed to satisfy its burden of showing the amount of benefits issued to Claimant for October 1, 2014 ongoing.

An issue arose during the hearing concerning the FAP group size. The Department testified that Claimant's FAP group had three members: Claimant, her [REDACTED]-year-old son, and Claimant's daughter's [REDACTED]-old son (Claimant's grandson). Claimant testified that her daughter, the mother of her grandson, also lived in the home and should have been included in the FAP group. The Department responded that, because Claimant's daughter had a child support sanction applied against her, she was excluded from the FAP group. See BEM 212 (July 2014), p. 8; BEM 255 (October 2014), p. 11. Claimant

alleged that the child support noncooperation issue had been resolved in a May 2, 2013 hearing. A Settlement Order issued by ALJ Leventer on May 9, 2013, in connection with the May 2, 2013 hearing, shows that *Claimant*, not her daughter, was deemed in cooperation with the Office of Child Support effective May 2, 2013. Claimant alleged that her daughter was found in cooperation with her child support reporting obligations in December 2013 and she had a letter from OCS establishing the compliance. She was given an opportunity to provide a copy of the letter into evidence but failed to do so. The Department testified that its system showed that Claimant's daughter remained in noncompliance with her child support reporting obligations. In the absence of any evidence showing that Claimant's daughter complied with her child support reporting obligations, the Department properly disqualified her from Claimant's FAP group. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's FAP benefits based on a FAP group size of three.

The other information considered by the Department in calculating Claimant's FAP benefits for October 1, 2014 ongoing was reviewed on the record. The FAP budget considered by the Department showed unearned income for the household totaling \$827, which was the amount of RSDI benefits Claimant received before an increase to \$840. Because Claimant receives RSDI benefits based on a disability, she is a senior/disabled/veteran (SDV) member of her FAP group. See BEM 550 (February 2014), pp 1-2. 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.

Based on Claimant's three-person FAP group, Claimant was eligible for a \$154 standard deduction. RFT 255 (October 2014), p. 1. Claimant confirmed that she had no day care, child support, or out-of-pocket medical expenses. Although there were some issues concerning Claimant's shelter expenses, at the hearing the Department accepted Claimant's testimony that she submitted verification of her expenses and testified that, in calculating Claimant's excess shelter deduction for October 2014 ongoing, it considered her monthly rent of \$600, consistent with Claimant's testimony. Under the circumstances presented, Claimant was eligible for the following deductions from her unearned income: (i) the standard deduction of \$154 and (iii) an excess shelter deduction that takes into consideration Claimant's monthly \$600 shelter expenses and the mandatory heat and utility standard of \$553, the most beneficial utility standard applicable in a FAP case, which the Department's evidence showed was applicable to

Claimant's FAP calculation. BEM 554, pp. 1, 8-19; RFT 255 (December 2013), p. 1. Because the Department did not use Claimant's most current RSDI income, the excess shelter deduction was not calculated in accordance with Department policy. See BEM 556 (July 2013), pp. 4-5.

Therefore, the Department applied the correct FAP group size for calculating Claimant's FAP benefits and properly considered her \$600 monthly housing expenses, but failed to establish that it applied the correct income, and, consequently, the correct excess shelter deduction, and that it issued FAP benefits based on the information presented at the hearing from October 1, 2014 ongoing.

FAP Supplements

Claimant also testified that she was never paid supplements for FAP benefits due to her resulting from a May 2, 2013 hearing. The May 2, 2013 hearing resulted in a Settlement Order issued by ALJ Leventer on May 9, 2013. A review of that Order shows that the only issue in that case was the denial of Claimant's MA application. The Order did not address FAP benefits. Therefore, Claimant was not eligible for FAP supplements as a result of the May 2, 2013 hearing.

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 (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was eligible for MA subject to a monthly deductible; (ii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for October 2014 ongoing; and (iii) acted in accordance with Department policy when it processed the May 9, 2014 Settlement Order and failed to issue any FAP supplements resulting from Claimant's May 2, 2014 hearing.

DECISION AND ORDER

Claimant's request for hearing concerning the denial of her SER application is DISMISSED.

The Department's FAP and MA decisions are AFFIRMED IN PART with respect to processing the May 9, 2014 Settlement Order and REVERSED IN PART with respect to its determination of Claimant's MA category and deductible amount and calculation of her monthly FAP benefits for October 1, 2014 ongoing.

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. Recalculate Claimant's MA eligibility for October 1, 2014 ongoing;
2. Provide Claimant with MA coverage she is eligible to receive from October 1, 2014 ongoing;
3. Recalculate Claimant's FAP budget for October 1, 2014 ongoing;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2014 ongoing; and
5. Notify Claimant in writing of its decision concerning her MA and FAP benefits.



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

Date Signed: **12/17/2014**

Date Mailed: **12/17/2014**

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;

