

**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.: 14-014850
Issue No.: 2001;3008
Case No.: ██████████
Hearing Date: January 05, 2015
County: Wayne-District 57

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 5, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistance Payment Worker, ██████████, Assistance Payment Supervisor, and ██████████, Acting Program Manager.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) 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 was an ongoing recipient of FAP benefits.
2. Claimant was approved for FAP benefits in the amount of \$751 for the month of October 2014. (Exhibit 1)
3. In connection with a redetermination, Claimant's eligibility for FAP benefits was reviewed.
4. Claimant was approved for FAP benefits in the amount of \$346 for the month of November 2014. (Exhibit 1)

5. On September 13, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing her that Claimant and her husband were ineligible for MA on the basis that their income exceeds the limit for the program. (Exhibit 4)
6. Claimant and her husband were ongoing recipients of MA benefits under the Group 2 Caretaker (G2C) program. (Exhibit 3)
7. Effective October 1, 2014, Claimant and her husband's monthly deductible increased to \$600. (Exhibit 3)
8. On October 14, 2014, Claimant requested a hearing disputing the Department's actions with respect to her FAP and MA cases.

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

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.

In this case, Claimant requested a hearing disputing the Department's actions with respect to her FAP case. Claimant testified that she was verbally informed that her FAP benefits would be cut, but that she was never notified in writing of the change or the reason for the action. At the hearing, the Department testified that Claimant's FAP case did not close, but rather that Claimant's case was due for redetermination in October 2014 and that Claimant's FAP budget was recalculated for the month of November 2014, ongoing, based on the verifications that were received. The Department presented a FAP Benefit Summary Inquiry showing that Claimant was approved for FAP benefits in the amount of \$751 for the month of October 2014 and \$346 for the month of November 2014. (Exhibit 1). Claimant disputed that she received the \$751 on her FAP card for October 2014 and stated that she only received around \$330, however, Claimant did not present any documentation to dispute the benefit summary inquiry which shows that the \$751 in benefits were available on October 17, 2014. (Exhibit 1).

Claimant also disputed the Department's calculation of her FAP benefits for each month since October 2014; however, given that Claimant's hearing request was received on

October 14, 2014, only a review of the FAP benefit calculation for the months of October 2014 and November 2014 was addressed at the hearing. Claimant was informed that she was entitled to request a hearing concerning her FAP benefits for December 2014, ongoing, should she so choose.

October 2014 FAP Benefits

At the hearing, the FAP EDG Net Income Results Budget was reviewed to determine if the Department properly concluded that Claimant's group was eligible to receive \$751 in FAP benefits for the month of October 2014. (Exhibit 2, pp. 1-3).

In calculating a client's FAP benefits, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department considers the gross amount of money earned from Retirement, Survivors and Disability Insurance (RSDI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (July 2014), pp. 28.

According to the FAP budget provided, the Department concluded that Claimant's group had unearned income of \$3295 which it testified came from RSDI benefits for all five of Claimant's group members. Specifically, the Department stated that it considered (i) \$1295 in RSDI for Claimant's husband; (ii) \$691 in RSDI for Claimant; and (iii) \$485 for each of Claimant's three children. After further review, the figures relied on by the Department do not total \$3295, therefore, the Department did not properly calculate Claimant's total unearned income.

The deductions to income on the net income budget were also reviewed. The budget shows that the Department properly applied the \$192 standard deduction applicable to Claimant's confirmed group size of five and that the maximum \$553.00 standard heat and utility deduction available to all to FAP groups responsible for certain heating and utility expenses was also properly applied. The Department also considered Claimant's confirmed housing expenses of \$1600. Because Claimant's FAP group includes senior/disabled/veteran (SDV) members, the SDV members are eligible for a medical deduction on the budget for confirmed medical expenses that exceed \$35. RFT 255 (October 2014), p 1; BEM 554 (May 2014), pp. 12-15. RFT 255 (October 2014), p.1;(Exhibit 2, pp. 1-3).

A review of the budget shows that a \$1625 medical deduction was applied to Claimant's FAP budget which the Department testified consisted of the old medical bills that were on file for Claimant's case prior to the redetermination. Claimant disputed this amount and stated that she submitted medical bills in an amount much greater than \$1600 and indicated that the Department failed to process all of the medical bills she submitted. Thus, the Department failed to establish that it properly calculated Claimant's medical deduction. BEM 554, p. 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 because of the errors in the calculation of Claimant's unearned income and medical deduction, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits for October 2014.

November 2014 FAP Benefits

At the hearing, the FAP EDG Net Income Results Budget was reviewed to determine if the Department properly concluded that Claimant's group was eligible to receive \$346 in FAP benefits for the month of November 2014, after her FAP redetermination was completed. (Exhibit 2, pp. 4-6).

According to the FAP budget provided, the Department concluded that Claimant's group had unearned income of \$3441 which it testified came from RSDI benefits for all five of Claimant's group members. Specifically, the Department stated that it considered (i) \$1295 in RSDI for Claimant's husband; (ii) \$691 in RSDI for Claimant; and (iii) \$485 for each of Claimant's three children. After further review, the Department properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. The budget shows that the Department properly applied the \$192 standard deduction applicable to Claimant's confirmed group size of five and that the maximum \$553.00 standard heat and utility deduction available to all to FAP groups responsible for certain heating and utility expenses was also properly applied. The Department stated that in connection with the redetermination, Claimant was required to submit current verification of her housing and medical expenses. The Department testified that because it did not receive verification of Claimant's new mortgage payment in the amount of \$972 until November 3, 2014, it was not included as a housing expense in the calculation of Claimant's excess shelter deduction. Claimant disputed the Department's testimony and credibly stated that she submitted verification of her new mortgage payment in October 2014, prior to the date in which she requested a hearing. It remained unclear from the Department's case presentation however, when the Department requested that Claimant submit verifications requested and the due date, so Claimant's testimony that she submitted the housing expense when she was asked was unrefuted. Thus, the Department improperly excluded Claimant's housing expenses from the calculation of the excess shelter deduction.

Furthermore, Claimant asserted that the medical deduction of \$1835 found on the November 2014 FAP budget was also incorrect and argued that the Department failed to process all of the medical bills she submitted. The Department did not explain how the medical deduction was calculated or what bills were relied on in making the determination. Thus, the Department has failed to establish that it properly calculated Claimant's medical deduction.

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 because of the errors in the calculation of Claimant's excess shelter and medical deductions, the Department did not act in accordance with Department policy when it calculated Claimant's FAP benefits for November 2014.

MA

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 disputing the Department's actions with respect to her MA benefits. Claimant raised two concerns at the hearing: (i) the Department's determination that Claimant and her husband were ineligible for MA benefits under the Medicare Savings Program (MSP) based on excess income; and (ii) the increase in Claimant and her husband's deductible from \$385 to \$600 effective October 1, 2014.

On September 13, 2014, the Department sent Claimant a Health Care Coverage Determination Notice informing her that effective October 1, 2014, she and her husband were ineligible for MA on the basis that their income exceeds the limit for the program. (Exhibit 4). At the hearing, the Department explained that Claimant had an active MA case under the G2C program with a monthly deductible and that the above referenced notice was only associated with Claimant's eligibility for the Medicare Savings Program (MSP) MA program.

MSP are SSI-related MA categories and the Additional Low-Income Medicare Beneficiaries (ALMB) is category of the MSP. BEM 165 (April 2014), p. 1. ALMB pays Medicare Part B premiums provided funding is available. BEM 165, p. 2. Income eligibility exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in this item. BEM 165, pp. 7-8. The monthly income limit for a group size of two is \$1790. RFT 242 (October 2014), p. 2.

At the hearing, the Department presented a SSI Related MA Income Results budget in support of its testimony that Claimant had excess income for the ALMB MSP. (Exhibit 5). A review of the budget shows that the Department determined that Claimant had unearned income in the amount of \$1986 which the Department testified came from Claimant and her husband's monthly RSDI, referenced above. The Department also properly subtracted the \$20 disregard to establish that Claimant's total net income for MA purposes is \$1966. BEM 530 (January 2014), pp. 1-2; BEM 541 (January 2014), p. 3.

Because Claimant's net income of \$1966 for ALMB MSP purposes exceeds the monthly income limit of \$1790, the Department acted in accordance with Department policy when it determined that Claimant and her husband were ineligible for MA under the ALMB MSP based on excess income.

At the hearing, the Department presented an Eligibility Summary showing that Claimant and her husband had active and ongoing MA coverage under the G2C program and that effective October 1, 2014, Claimant and her husband's MA deductible increased to \$600. (Exhibit 3, p. 1 and p. 3). Claimant disputed the increase in the deductible.

Additionally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 135 (July 2013), p 1; BEM 544 (July 2013), p 1; BEM 545(July 2013); RFT 200 (December 2013);RFT 240 (December 2013), p 1. The monthly PIL for a MA group of two (Claimant and her husband) living in [REDACTED] is \$500.00 per month. BEM 211, pp.5-6;RFT 200, p 1; RFT 240, p 1.

A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (January 2014); BEM 536 (January 2014). In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p.5.

A multi-step process is utilized when determining a fiscal group member's income. BEM 536, pp. 1-7. Thus, if Claimant's net monthly income is in excess of the \$500.00, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$500.00. BEM 545, p 1.

At the hearing, the Department produced a G2C FIP Related MA Budget showing how the deductible in Claimant and her husband's case was calculated. (Exhibit 6). The Department testified that in calculating Claimant's deductible it relied on the unearned income from Claimant and her husband's RSDI, however, did not identify exact amounts relied on or what figures were considered as income.

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp.1-5. Although it was established that Claimant has three children, it was unclear from the evidence presented if all of her children were minors, as there was some testimony that one of Claimant's children was 19, however, because the dates of birth of the children were not identified, the number of dependents cannot be determined.

A review of the budget shows that the Department considered \$209.80, as a needs deduction for insurance premiums, however, it was unclear how this figure was determined, as the Department failed to explain this portion of the budget. In addition, Claimant disputed the Department's determination that her group had \$0 in ongoing medical expenses and \$0 in current and old bills, as noted on the budget. Claimant stated that she had submitted medical expenses and had current and old bills that should have been processed and applied to her deductible budget. (Exhibit 6).

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 showing that it acted in accordance with Department policy when it determined that Claimant and her husband's monthly deductible was \$600, effective October 1, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the Department's determination that Claimant and her husband were ineligible for MA under the ALMB MSP and REVERSED IN PART with respect to the calculation of Claimant's FAP benefits and MA deductible.

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 the FAP budget for October 2014 and November 2014, taking into consideration Claimant's verified medical and housing expenses;
2. Issue FAP supplements to Claimant from October 1, 2014 to November 30, 2014, in accordance with Department policy;
3. Recalculate Claimant and her husband's MA deductible for October 1, 2014, ongoing;
4. Process any medical expenses incurred and apply towards Claimant's MA deductible and FAP medical deduction in accordance with Department policy;

5. Issue supplements to Claimant and her husband for MA benefits from October 1, 2014, ongoing; and
6. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **1/13/2015**

Date Mailed: **1/13/2015**

ZB / 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;
- 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:

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