

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

**IN THE MATTER OF:**

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

Reg. No.: 15-005932  
Issue No.: 3008, 2001  
Case No.: ██████████  
Hearing Date: May 18, 2015  
County: WAYNE-DISTRICT 57  
(CONNER)

**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; and Mich Admin Code, R 792.11002. After due notice, a TELEPHONE hearing was held on May 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Assistance Payments Worker, and ██████████, FIM.

**ISSUE**

Did the Department properly calculate the Claimant's Food Assistance (FAP) benefits?  
Did the Department properly calculate the Claimant's MA spend down amount?

**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 Department conceded that it closed the Claimant's Medical Assistance in error. At the time of the hearing the Claimant's Medical Assistance was restored.
2. The Department issued a Notice of Case Action on March 24, 2015 and approved the Claimant for \$28 in FAP benefits effective April 1, 2015.
3. The Claimant received \$49 in FAP benefits in February 2015. The Claimant's income used was \$2153. The Claimant received a medical deduction of \$70 (Medicare Part B Premium of \$104.90 - \$35 = \$70). Rent used was \$800 and a Utility Allowance of \$553 for heat and electricity was included. The Claimant's

FAP group size was 3. The Claimant received RSDI in the amount of \$1435.90 Exhibit J. The Claimant's two minor children each receive SSA income of \$364 per month each. Exhibit A and B and C.

4. The Claimant's FAP group gross income for February 2015 was \$2,153. Exhibit A and B and J.
5. The Claimant received an increase in her RSDI in March 2015 and her monthly unearned income was \$1481.90 and her children's unearned income was increase to \$370 per month each for a total of \$2221. The Department also received a medical expense in the amount of \$2440, which was deducted from the unearned income and was due to a medical expense for December submitted to the Department by the Claimant's Authorized Hearing Representative for a December 2014 hospitalization submitted in February 2015 and applied in the Claimant's FAP budget as a medical expense deduction for March. This expense cause the Claimant's income after this deduction to be \$0 and her FAP benefits increased to \$511. Exhibit C and D.
6. In April 2015 the Department issued the Claimant reduced FAP benefits of \$28 due to the one time medical deduction taken in March 2015. The medical expense returned to \$70. The Department calculated the FAP group income as \$2199. This unearned income was not correct. The Department agreed the group income was incorrect. The Shelter expense remained \$800 and the heat and utility allowance remained at \$553 with a group size of 3 members. Exhibit E.
7. The Department issued a Health Care Coverage Determination Notice on April 20, 2015 approving the Claimant for MA with a \$395 deductible and ongoing coverage for her children.
8. The Department presented a FIP related MA adult net income budget. The Department used unearned income for the Claimant of \$1481.90 based upon her RSDI. Exhibit H and I, page 7. The Department also credited the Claimant with the cost of her Medicare Part B premium of \$104.90 and did not include any ongoing medical expenses as none had been submitted by the Claimant at the time the budget was prepared. The protected income level for a group of one individual is \$375.
9. The Claimant paid rent in the amount of \$800 and received a heat and utility standard for all FAP budgets which was correct. The rent amount was confirmed by the Claimant.
10. The Claimant had a redetermination in February 2015, at which time her FAP benefits were reviewed.

11. The Claimant requested a hearing on April 9, 2015 protesting the closure of her Medical Assistance and her deductible amount and the amount of her Food Assistance benefits.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the FAP budgets were reviewed during the hearing for February 2015 through April 2015. The benefits for each of the months varied. The February and March 2015 FAP budgets were correct. The income for February was less than March due to RSDI and SSA (annual increase) received by Claimant and her children increasing in March, thus income for February was \$2153 and for March was \$2221. These incomes were verified based upon the SOLQs presented at the hearing. The FAP benefits for March 2015 significantly increased due to a large (one time) medical expense of \$2440 which reduced the Group income to \$0. Thus in March 2015 the Claimant's FAP group received the maximum for a group of 3 individuals \$511. RFT 260 (October 1, 2014) p. 1. The budget for February used the correct rent of \$800 and heat utility standard expense of \$553. Exhibit D.

The budget for April 2015 was also reviewed and it was determined that the April 2015 benefits were incorrect as the Department used \$2199 for the FAP group unearned income which was incorrect and could not otherwise be explained by the Department. Therefore the Department must recalculate the budget. The Department should have used the same unearned income for March, \$2221. Exhibit E.

Lastly the G2 FIP-related MA budget was reviewed after the hearing. The formula to be followed when calculating the deductible is found in BEM 536 (January 1, 2014), p. 1-7. In calculating the MA deductible, the Claimant's income from RSDI of \$1481.90 was used. This income is correct and based on the SOLQ. Exhibit I. The Claimant also received a medical insurance premium deduction of \$104.90. No current and old medical bills were submitted, so no deduction for medical bills was included in the budget. For purposes of this MA budget only the Claimant's income is considered as there is only one member in her MA fiscal group. The Claimant's total net income was \$1481.90 as she had no child support income or other fees. The Claimant had two minor children who are her dependents. The two dependents are added to 2.9 to get a pro rate divisor of 4.9. The budget calculation requires that the net income be divided by the prorated divisor to get the Adult's prorated income, which in this case is the Claimant. The Adult's prorated income is \$302. ( $\$1481.90 \div 4.9 = 302$ ). The next step determines that the Adult's share of adult's (Claimant's) own income be determined. This is done by multiplying  $2.9 \times \$302 = (\text{adult's prorated income}) = \$875$ . Insurance premiums of \$104.90 are deducted to get total net income which equals \$770.10. Lastly the protected income level (PIL) for Wayne County is subtracted from the net income to get the deductible amount. ( $\$770 - \$375 = \$395$ ). The PIL for Wayne County is \$395. RFT 200 (12/1/13), p.1; RFT 241(12/1/13) p. 1. Based upon a review of the Department's budget it is determined that the spend down of \$395 as conducted by the Department is correct. Exhibit H.

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 February 2015 and March 2015 FAP budgets. The Department also correctly calculated the Claimant's April 2015 spend down amount.

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 calculated the Claimant's April 2015 FAP budget.

### **DECISION AND ORDER**

Accordingly, the Department's decision is

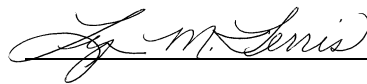
**AFFIRMED IN PART** with respect to FAP budgets for February and March 2015 and the April 2015 spend down amount; and,

**REVERSED IN PART** with respect to the April 2015 FAP budget.

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 shall recalculate the Claimant's FAP budget for April 2015 and determine the correct FAP allotment using the correct FAP group unearned income.
2. Once the FAP benefits are recomputed the Department shall adjust the April 2015 benefits accordingly.



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

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

LMF / cl

**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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]