

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

IN THE MATTER OF:

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

Reg. No.: 15-008063
Issue No.: 2001; 3008
Case No.: ██████████
Hearing Date: June 22, 2015
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 June 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department correctly calculate Claimant's allotment for the Food Assistance Program (FAP)? Did the Department correctly change Claimant to a Group 2 Medical Assistance (MA) deductible case, with a deductible of ██████████?

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 a FAP and MA recipient.
2. On June 1, 2015, Claimant's FAP benefits were reduced due to excess income.
3. On June 1, 2015, Claimant's MA benefits were switched to a Group 2 deductible case with a ██████████ deductible, due to excess income.
4. Claimant was notified of the changes on May 1, 2015.
5. On May 11, 2015, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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 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 Health and Human Services (formerly known as the Department of Human Services) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of [REDACTED] is allowed for certain households. Certain non-reimbursable medical expenses above [REDACTED] a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of [REDACTED] for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the Claimant's gross income. The gross unearned income and earned income amounts must be counted as income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The Department, in compliance with the federal regulations, has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. After reviewing the reference tables and Claimant's confirmed income, the undersigned has determined that the Department awarded the Claimant the correct amount of FAP benefits for the time period in question. The Administrative Law Judge has reviewed the budget and found no significant errors. All deductions appear to have been correctly calculated in accordance with policy.

Claimant argued that the income in question was overtime income, and thus should not be counted. However, overtime income may be counted if the income is regularly received. BEM 500. This income appears in both paychecks submitted by the Claimant with no indication it was not regular.

Furthermore, Claimant never informed the Department that the income in question was overtime income, and as such, the Department cannot be faulted for using the information in their possession according to policy, with no dispute or caveats to that information.

Finally, Claimant's own redetermination paperwork states that this income is regular. As such, the undersigned finds that the Department acted according to policy, when it used this information, as there was no information to the contrary.

The same rationale is applied to Claimant's MA determination.

With regard to the MA eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105 pg. 1 (2014).

For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545, pg. 1 (2015).

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166, pg. 2 (2013). The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544, pg. 1 (2013).

An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for MA, if sufficient allowable medical expenses are incurred.

Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

The MA budgets included Claimant's earned and unearned income. Per policy, this income must be counted as income to the group. The Administrative Law Judge has reviewed the budgets and found no errors. Claimant was unable to point out specifically what parts of the budget they felt were in error, and appeared to focus entirely on equitable arguments, which are beyond the purview of the Administrative Law Judge. Therefore, Claimant only becomes eligible for Group 2 MA when the excess income, calculated to be [REDACTED], is spent. This amount was calculated after considering Claimant's allowed protected needs level. The undersigned cannot point to any errors in the budgets, and must conclude that the Department's calculations were correct.

The Administrative Law Judge, based upon 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 imposed a deductible of [REDACTED].

For these reasons, the undersigned must uphold the Department findings. The Administrative Law Judge, based upon 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 Claimant's FAP and MA benefits.

DECISION AND ORDER

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



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

RJC/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]