

**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.: 15-013001
Issue No.: 2001;3008
Case No.: ██████████
Hearing Date: August 31, 2015
County: Wayne-District 35 (Redford)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 31, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly calculate the amount of Claimant's Food Assistance Program (FAP) benefits and the amount of his 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 ongoing recipient of FAP and MA benefits.
2. On June 11, 2015, the Department sent Claimant a Notice of Case Action informing him that he was approved for monthly FAP benefits in the amount of \$16. (Exhibit A, pp. 10-13)
3. Claimant was approved for MA benefits under a deductible based program with the amount of his monthly deductible being \$770. (Exhibit A, pp.20-23)
4. On July 14, 2015, Claimant requested a hearing disputing the Department's actions with respect to the calculation of his FAP benefits and MA deductible.

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).

FAP

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.

In this case, Claimant requested a hearing disputing the Department's calculation of his FAP benefits in the amount of \$16. At the hearing, the Budget Summary from the June 11, 2015, Notice of Case Action was reviewed to determine if the Department properly calculated the amount of Claimant's FAP benefits. (Exhibit A, p. 11).

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (April 2015), pp. 1 – 5. 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), p. 28. The Department concluded that Claimant had unearned income in the amount of \$1185 which consisted of Claimant's monthly RSDI benefits. Claimant confirmed that his gross monthly RSDI benefit is \$1185 and the Department presented a SOLQ in support of its testimony. (Exhibit A, pp.17-19). Thus, the Department properly calculated Claimant's unearned income.

The deductions to income on the net income budget were also reviewed. Claimant is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the FAP group. BEM 550 (February 2014), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- 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.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2014), p. 1; BEM 556 (July 2013), p. 3.

In this case, Claimant did not have any earned income and there was no evidence presented that he had any out of pocket dependent care, child support, or medical expenses over \$35. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his confirmed one-person group size, the Department properly applied the \$154 standard deduction. RFT 255 (October 2014), p. 1.

In calculating Claimant's excess shelter deduction of \$139, the budget shows that the Department properly considered Claimant's confirmed monthly rent of \$450 and the \$124 non-heat electric standard. The Department stated that Claimant was not eligible for the \$553 heat and utility (h/u) standard in calculating the excess shelter deduction.

Department policy provides that the \$553 mandatory heat and utility (h/u) standard is available only for FAP groups (i) that are responsible for heating expenses separate from rent or mortgage; (ii) that are responsible for cooling (including room air conditioners); (iii) whose heat is included in rent or fees **if** the client is billed for excess heat, has received the home heating credit in an amount greater than \$20 in the current month or the immediately preceding 12 months, or has received a Low-Income Home Energy Assistance Act (LIHEAP) payment or a LIHEAP payment was made on his behalf; (iv) whose electricity is included in rent or fees **if** the landlord bills the client separately for cooling; or (v) who have any responsibility for heating/cooling expense. BEM 554, pp. 16-19; RFT 255, p. 1. FAP groups not eligible for the h/u standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards that the FAP group has responsibility to pay. BEM 554, p. 19.

Claimant confirmed that all of his utility expenses other than electricity costs are included in his monthly rent. Although Claimant testified that he uses an electric heater during the winter months in addition to his home's heating system as it is too cold, Claimant stated that his rent includes heating costs. Thus, the Department properly excluded the \$553 h/u standard and determined that Claimant was eligible for an excess shelter deduction of \$59. See BEM 554, pp. 16-19; BEM 556, pp. 4-5.

After further review, the Department properly reduced Claimant's gross income of \$1185 by the \$154 standard deduction and the \$59 excess shelter deduction, resulting in monthly net income of \$972. Based on net income of \$972 and a FAP group size of one, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$16. BEM 556; RFT 260 (October 2014), p. 13.

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

Claimant submitted a hearing request disputing the Department's calculation of his monthly MA deductible. Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (January 2015), p 10. 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 105 (October 2014), pp. 1-2; BEM 166 (July 2013), pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one (Claimant) living in Wayne County is \$375 per month. RFT 200 (December 2013), p 1; RFT 240, p 1. Thus, if Claimant's net monthly income is in excess of the \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p 1.

At the hearing, the Department did not have any documentation supporting its testimony that the calculation of Claimant's MA deductible was correct, other than a Health Care Coverage Determination Notice dated July 3, 2014. There was no budget presented, thus, the Department failed to establish that it properly calculated the amount of Claimant's monthly MA deductible.

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 calculated Claimant's monthly MA deductible. Thus, the Department shall recalculate the MA deductible as of the date that the hearing request was received.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to FAP and **REVERSED IN PART** with respect to MA.

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 deductible for July 1, 2015, ongoing;
2. Provide Claimant with MA coverage from July 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/4/2015**

Date Mailed: **9/4/2015**

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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.

