

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-10006
Issue No: 2014; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 18, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on February 18, 2009.

ISSUE

Was the claimant's Medicaid budget and FAP allotment computed correctly?

FINDINGS OF FACT

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

- (1) Claimant was receiving a Food Assistance Program (FAP) allotment budget of [REDACTED].
- (2) Claimant was receiving MA-P with no deductible.
- (3) Claimant's FAP and MA-P benefits came up for review in December, 2008.

(4) An FAP budget completed on 12-29-2008 reduced claimant's FAP allotment to

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(5) An MA-P budget review initially completed on 12-29-08 originally showed that claimant's MA-P eligibility would continue unchanged. However, upon review by Family Independence Manager ■■■■■, the budget was revised to take into account claimant's VA benefits, which had not been taken into account in the previous budget.

(6) The new MA-P budget, completed on 1-6-09 showed continued eligibility for the claimant; however this budget now included a deductible of ■■■■■. A negative action was sent effective 1-19-09.

(7) Claimant requested a hearing on 12-30-08, stating that he believed the allotment amounts that he had been given were incorrect.

(8) At the time of the review, claimant was receiving ■■■■■ in RSDI benefits, and ■■■■■ in VA benefits, for a total of ■■■■■ in unearned income.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department

of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM) and Reference Tables (RFT).

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. PEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 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 \$300 for non-senior/disabled/veteran households. PEM, Items 500 and 554; RFT 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The gross RSDI benefit amount must be counted as unearned income, which is ██████ in the current case. PEM 500. The gross VA benefit must also be counted as unearned income, in this case ██████. These amounts were verified by an SOLQ, presented as Department Exhibit 10. 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 Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for a FAP allotment of ██████. Therefore, the undersigned finds that the FAP allotment was computed correctly.

With regard to the MA-P eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant appeared to

originally be eligible for Group 1 Medicaid. However, net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. PEM 105. For a household size of 2, this limit is \$1,141. RFT 242. 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. PEM 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). PEM 545.

Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 166. 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. PEM 544. 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. PEM 545; 42 CFR 435.831.

In the original budget, claimant was found eligible for Group 1 MA by virtue of an unearned income of [REDACTED], with a [REDACTED] disregarded for cost-of-living, for a net income of

██████, which is █████ below the threshold to maintain Group 1 eligibility. Unfortunately, when running this budget, DHS forgot to take into account claimant's VA benefits, discussed above.

The new budget, which was run on 1-6-09, correctly included claimant's VA benefits. The Administrative Law Judge has reviewed this corrected budget and found no errors. Claimant himself was unable to point out specifically what parts of the budget he felt were in error. A corrected unearned income total of █████, modified to █████ once all disregards are taken into account, is over █████ more than the █████ threshold. Therefore, claimant is no longer eligible for Group 1 MA, and under the regulations discussed above, only eligible for Group 2 MA when the excess income, budgeted here to be █████, is spent. While it may seem incredible that an increase in income of only a little over █████ can result in over █████ of excess expenses, the regulations are quite clear, and the Administrative Law Judge has no choice but to conclude that both budgets were calculated correctly.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to decrease the claimant's FAP allotment to █████ and impose an MA-P deductible of █████ was correct.

Accordingly, the Department's decision is AFFIRMED.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 23, 2009

Date Mailed: February 25, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC [REDACTED]

cc: [REDACTED]