

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.: 2009-1007
Issue No.: 2019/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 29, 2009
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 29, 2009. The Claimant personally appeared and testified.

ISSUES

1. Did the Department correctly calculate the Claimant's Food Assistance (FAP), benefits and deny her ongoing Medical Assistance (MA) due to excess income?
2. Did the department properly determine claimant's deductible 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 Claimant was an ongoing MA and FAP recipient. The group size is one (1).

- (2) On September 19, 2008, the Department performed a review for MA and FAP. The budgets prepared show a monthly FAP benefit of \$22.00 and a MA spend down of \$839.00 per month.
- (3) On October 8, 2008, the Claimant filed a request for a hearing contesting her FAP benefit and the amount of the deductible. .

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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).

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 (formerly known as the Family Independence Agency) 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 Tables (PRT).

The goal of the MA program is to ensure that essential health care services are made available to those who otherwise could not afford them.

The State of Michigan has set guidelines for income, which determines if a MA group is eligible. Income eligibility exists for the calendar month tested when:

- There is no exceeds income, or
- Allowable medical expenses equal or exceed the excess income (under the deductible guidelines), (PEM 545).

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. (PEM 105).

Income eligibility exists when new income does not exceed the Group 2 needs in PEM 544. (PEM 166).

The protected income level is a set allowance for non-medical items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. (PEM 544). An eligible MA group has income the same or less than the “protected income level” as set forth in the policy contained in the program reference table. 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 allows a claimant/client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. 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 for which it wants medical coverage. (PEM 545; 42 CFR 435.831).

The monthly protected income level for a MA group of one (1) living in Wayne County is \$375.00 per month. (RFT 240). In determining the net income a standard deduction of \$20.00 is deducted for SSI related MA recipients (disabled). In determining net income \$65.00 plus half

the remaining amount is deducted from gross earned income. (PEM 536; 42 CFR 435.811. In addition, the cost of any health insurance premium is deductible. (PEM 544).

In the instant case claimant's total needs of \$579.39 is deducted from the net income of \$1, 419.00 exceeds the monthly protected income level \$375.00 plus health insurance premiums of \$204.39 by \$839.00. Claimant argues that she is unable to pay the deductible per month because of limited means. This Administrative Law Judge does sympathize with the claimant in this instance, but does not have the prerequisite jurisdiction to change or alter department policy and state law. This ALJ finds that the department has acted in accordance with department policy and law in setting the claimant's deductible at \$839.00 per month.

The Claimant questions the amount of her FAP allotment. The Claimant has a net income of \$466.00 per month. This was obtained by subtracting the standard deduction of \$125.00, the excess shelter amount of \$631.00, and excess medical expenses of \$217.00, from the gross income of \$1,439.00.

The amount of a monthly FAP allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of \$466.00 was entitled to a monthly FAP grant of \$22.00 per month. (RFT 260, p. 5)

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFRIMS the Department's actions finding that the claimant is receiving the correct monthly FAP allotment and that the department correctly computed the claimant's MA deductible.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/10/09

Date Mailed: 06/10/09

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

MJB/jlg

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