

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant,

Reg No: 2009-24150

Issue No: 2026, 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

August 12, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was conducted from Detroit, Michigan on August 12, 2009. The Claimant appeared and testified. Susan Hengesbaugh, FIM, and Diane Cole, ES, appeared on behalf of the Department.

ISSUES

1) Did the department properly calculate the deductible for claimant's Medicaid (MA) benefits?

2) Is claimant receiving the correct monthly Food Assistance Program (FAP) allotment?

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. Claimant had obligations for shelter, utilities, and heat.

3. Claimant has income from employment and RSDI benefits.
4. On March 2, 2009, the department recalculated the MA and FAP budgets and determined that claimant has a \$765 MA deductible and is entitled to a monthly FAP allotment of \$14. (Department Exhibit 1 and Department Exhibit 2)
5. Claimant requested a hearing on April 27, 2009 contesting the MA deductible and FAP allotment determinations.
6. On June 19, 2009, claimant provided medical expense verifications.
7. On June 27, 2009, the department recalculated the FAP budget adding in medical expenses and determined that claimant is entitled to a monthly FAP allotment of \$124. (Department Exhibit 3 pg. 16)
8. On July 9, 2009, the department recalculated the MA and FAP budgets based on a change in claimant's RSDI income and determined that claimant has an \$856 MA deductible and is entitled to a monthly FAP allotment of \$127. (Department Exhibit 3 pp. 4 and 13)

#### CONCLUSIONS OF LAW

#### **Medicaid (MA)**

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).

The Medical Assistance program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a MA group falls within the needy classification. Under PEM Items 544 and 545, an eligible Medical Assistance group (Group II MA) has income the same as or less than the “protected income level” plus medical insurance premiums 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. A deductible 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. The department uses current and old medical obligations (old bills) as well as expenses for personal care services in the home to determine if a deductible was met. PEM 545.

The monthly protected income level for a Medical Assistance group of one living in Wayne County is \$375 per month. RFT 200 and 240. In determining net income, \$65 plus half the remaining amount is deducted from gross earned income. RSDI benefits are also counted in determining net income. PEM 546.

In the present case, claimant disputes the income figure used in the MA budgets. The department included \$336 for unearned income in the MA budgets. (Department Exhibits 1 pg. 4 and Department Exhibit 3 pg. 5) Claimant testified she stopped receiving \$366 monthly

benefit in 2008. Of note, this \$336 of unearned income was not included in any of the FAP budgets. Further, the department representative testified this was an error in the MA budgets. It is also noted that the \$96.40 health insurance premium was only included in the March 2009 MA budget and not in the July 2009 MA budget.

Based upon the foregoing facts and relevant law, it is found that the department erred in calculating the March 2009 and July 2009 MA budgets. Accordingly, the department's MA deductible determinations are REVERSED.

**Food Assistance (FAP)**

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The federal regulations define household income to include RSDI benefit income as well as wages and salaries of an employee. 7 CFR 273.9(b). Only 80% of the gross earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter and medical expenses are also made. PEM 554.

In the present case, claimant testified that the figures used in the March 2, 2009 FAP budget were correct. Claimant provided the department with verification of medical expenses June 19, 2009 and the FAP budget was recalculated on June 27, 2009 resulting in an increase in

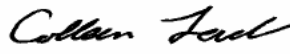
the FAP allotment from \$14 to \$124. However, claimant testified her rent increased from \$108 to \$221 in July 2009. Accordingly, the \$108 rent figure used in the July 9, 2009 FAP budget was not correct.

Based upon the foregoing facts and relevant law, it is found that the department erred in calculating the July 2009 FAP budget. Accordingly, the department's FAP determination for July 2009 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated claimant's MA deductible in the March 2009 and July 2009 MA budgets and claimants FAP allotment as of the July 2009 FAP budget.

Accordingly, the Department's MA deductible determinations as of March 2009 and the FAP determination as of July 2009 are REVERSED. Therefore it is ORDERED that the department re-determine claimant's MA deductible retroactive to March 2009 and re-determine claimant's FAP allotment retroactive to July 2009 in accordance with this Decision.

  
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Colleen Lack  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/10/09

**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 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.

CL/dj

cc:

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