

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: 2009-24792  
Issue No: 2013  
Case No. [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 15, 2009  
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 July 15, 2009. Claimant personally appeared and testified. Two eligibility specialists represented the Department.

ISSUE

Did the Department properly determine Claimant's eligibility for the Medical Assistance (MA) and Food Assistance Program (FAP) benefits?

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 is a FAP and MA recipient for group size of four that included her husband and two daughters, ages 19 and 21.
- (2) Prior to this hearing, Claimant received \$614 in monthly FAP benefits. Claimant and her daughters received MA benefits.

- (3) On April 16, 2009, the Department ran FAP and MA budgets based on the information provided for May 2009. (Exhibits 1 and 2, respectively).
- (4) When the Department received clarification of one of the daughter's work hours the Department calculated new FAP and MA budgets for May 2009. As a result of including the daughter's income, Claimant's new FAP budget for May 2009 resulted in a decrease in FAP benefits to \$73 monthly. (Exhibit 5).
- (5) Regarding MA benefits, Claimant was eligible for MA with no deductible while her daughters have MA with deductibles of \$526 for the 19 year-old daughter and \$274 for the 21-year-old daughter. (Exhibit 6).
- (6) Claimant disagreed with the Department on the grounds that the family and the daughters' still have numerous expenses that are not considered in the MA and FAP budget calculations.
- (7) The Department received Claimant's hearing request on May 8, 2009.

#### 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 for FAP and MA 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 Manual (PRM).

## **MA ASSET ELIGIBILITY**

### **LIF, G2U, G2C, AMP and SSI-Related MA Only**

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories.

**Note:** Do **not** deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in PEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of [L/H patient](#) and PEM 106 for the definition of [waiver patient](#).

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment (see [PEM 405](#)). (PEM 400, p.4).

### **Income and deductions.**

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

## **DEPARTMENT POLICY**

### **All Programs**

This item discusses income for:

- Family Independence Program (FIP).
- State Disability Assistance (SDA).
- Refugee Assistance Program (RAP) which if policy differs is divided into:
  - Refugee Assistance Program Cash (RAPC).
  - Refugee Assistance Program Medical (RAPM).
- Child Development and Care (CDC).

**Note:** Applies to all CDC Income Eligible groups.

- Medicaid (MA) which, if policy differs, is divided into:
  - FIP-related MA.
  - SSI-related MA.
  - Specific MA categories.
- Adult Medical Program (AMP).
- TMA-Plus (TMAP).
- Food Assistance Program (FAP).

The phrase “All Programs” in this item means all the programs listed above.

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain program specific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if NOT paid directly such as income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount.

**Exception:** The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. (PEM 500 p. 1-2)

### **Student Earnings**

#### **All Programs**

This disregard applies to all sources of **earned** income including wages and training income. It ends the month after the person stops meeting a requirement (example: month after reaching age 18).

***Exception:*** There is a different disregard for Workforce Investment Act-funded training income. See [“TRAINING INCOME”](#) in this item. Continue the exclusion during school breaks and vacations if the student plans to return to school when regular sessions resume. See [“Student’s Saving Exclusion”](#) in PEM 400 for the asset exclusion policy.

#### **FIP, SDA, RAP, CDC and FAP Only**

Disregard the earnings of a person who is:

- Under age 18, and
- Attending elementary, middle or high school including attending classes to obtain a GED, and
- Living with someone who provides care or supervision.

#### **LIF Only**

Disregard the earnings of a dependent child in the LIF qualified group.

#### **G2P, G2U and Healthy Kids**

Disregard the earnings of a person under age 19 who is living with someone who provides care or supervision. (PEM 500, p. 7)

Under PEM 500, a child’s earnings are disregarding if the child is under age 18 and attending high school. In this case, both daughters are over age 18 and are not in high school. Moreover, Claimant did not dispute the accuracy of the figures used to calculate the FAP or MA budget. Therefore, there was no evidence that the Department erred in calculating the Claimant’s FAP or MA budgets for May 2009. The undersigned has reviewed the budgets and finds them to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly calculated Claimant's eligibility for MA and FAP for May 2009. Accordingly, the Department's decision is AFFIRMED.

/s/ \_\_\_\_\_  
Tyra L. Wright  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 08/24/09

Date Mailed: 08/24/09

**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.

TW/dj

cc:

