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: 2009-30477
Issue No: 2006; 3003
Case No: [redacted]
Load No: [redacted]
Hearing Date:
August 25, 2009
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on August 25, 2009. Claimant personally appeared and testified along with his wife [redacted]

[redacted]

ISSUES

1. Did the department correctly deny claimant's Medicaid (MA) application in July, 2009?

2. Did the department correctly compute the amount of Food Assistance Program (FAP) benefits that the claimant's household was entitled to receive?

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 applied for MA and FAP on May 29, 2009.

2. On June 9, 2009, department mailed the claimant a Verification Checklist, DHS-3503, asking for verification of checking account, vehicle value, and medical expenses. Due date for return of these verifications was June 22, 2009. (Department's Exhibit 1).

3. On June 25, 2009, the caseworker granted an extension for the claimant to provide requested verification. Another DHS-3503 was mailed to the claimant on this date with a due date of July 7, 2009.

4. Claimant did not return requested verification. On July 8, 2009, department mailed the claimants a Notice of Case Action denying their MA application. Department determined claimant was eligible for $47 per month in FAP benefits.

5. Claimant requested a hearing on July 17, 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 (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 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).

Hearing testimony reveals further actions taken by the department on claimant's MA case. Claimant's wife was on SSI previously and therefore had automatic MA eligibility, as SSI income is not considered for MA budget computation. BEM 150. Wife's SSI then stopped and she was now receiving RSDI, income that must be counted when determining MA eligibility. Department indicates that an MA budget was computed for claimant's wife but resulted in a deductible of over $1,100 per month. Department's policy states:

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). PEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. 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.

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 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. PRT 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 the policy contained in the Program Reference Table (PRT). 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.

Claimant is frustrated by the deductible amount, which is perfectly understandable. Unfortunately, department must perform MA eligibility calculations in accordance with policy and federal government's regulations, no matter how shocking the outcome of such calculations is (i.e. expecting this couple that receives under $2,000 of income per month to pay over $1,100 of such income towards medical expenses monthly in order to qualify for MA for that particular month).

Claimant's FAP issuance was also addressed. While the income and expense amounts were correctly included in the FAP budget and the resulting FAP benefit is therefore correct, claimant has not provided proof of any medical expenses that he pays. Such medical expenses can be included on the FAP budget, possibly resulting in higher allotment amount. Departmental policy states:

> **MEDICAL EXPENSES**
>
> **Estimated Medical Expense**
>
> Estimate an SDV person's medical expenses for the benefit period. A FAP group may voluntarily, but cannot be required, to report changes during the benefit period.

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. See **Expenses for Disqualified or Ineligible Persons** in this item.

The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow **only** the non-reimbursable portion of a medical expense.

Note: Any incurred current medical expense that is applied toward a Medicaid spend-down is also an allowable FAP medical expense. PEM, Item 554, p. 6.

Application and Redetermination

Estimate an SDV person's medical expenses for the benefit period. Base the estimate on:

- verified medical expenses;
- available information about the SDV member's medical condition and health insurance; and
- changes that can be reasonably anticipated to occur during the benefit period. PEM, Item 554, pp. 6-7.

During the Benefit Period

Process changes during the benefit period **only** if they are:

- voluntarily reported and verified during the benefit period (e.g., expenses reported and verified for MA spend-down); or
- reported by another source **and** you have sufficient information and verification to determine the allowable amount **without** contacting the FAP group. PEM, Item 554, p. 7.

Allowable Medical Expenses

Allowable medical expenses are limited to the following:

- Medical and dental care

- Hospitalization or nursing care. Include these expenses for a person who was a group member, immediately prior to entering a hospital or nursing home

- Prescription drugs and the postage form mail-ordered prescriptions

- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets)

- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional

- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s)

- Medicare premiums

- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)

- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist

- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle.

- The cost of employing an attendant, homemaker, home health aid, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it

must be treated as a medical expense. PEM, Item 554, pp . 7-8.

One-Time-Only Expenses

Average one-time-only medical expenses over the balance of the benefit period. Begin with the first benefit month the change can affect.

Exception: Groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period:

1. budget it for one month, or

2. average it over the remainder of the first 12 months of the benefit period, or

3. average it over the remainder of the 24 month benefit period. PEM, Item 554, p. 8.

VERIFICATION

Verify medical expenses including the **amount of reimbursement**, at initial application and redetermination. Verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits.

Do not verify other factors, unless questionable. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost. PEM, Item 554, p. 9.

VERIFICATION SOURCES

Acceptable verification sources include, but are not limited to:

- Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid

- Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer

- DHS-54A, Medical or Dental Needs, completed by a licensed health professional

- BENDEX for Medicare premiums
- Written statements from licensed health care professionals
- Collateral contact with the provider. (Most commonly used to determine cost of dog food, over the counter medication and health-related supplies, and ongoing medical transportation) PEM, Item 554, p. 9.

Claimant may use the information about medical expenses that may be allowed on FAP budget as a guide in reporting the same.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly denied claimant's MA application in July, 2009. Department also correctly computed the amount of FAP benefits claimant was to receive (based on reported expenses at the time).

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/S/_____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 3, 2009

Date Mailed: September 8, 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 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 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.

IR[redacted]

cc: [redacted]