

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: 2009-12182
Issue No: 2014; 3015; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 10, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 10, 2009. The claimant personally appeared and testified.

ISSUES

1. Did the department properly deny the claimant's Child Development and Care (CDC) program and Food Assistance Program (FAP) application due to excess income?
2. Did the department properly determine the claimant had excess income for her active Medical Assistance (MA) case and switch the claimant to an MA deductible case?

FINDINGS OF FACT

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

1. The claimant applied for FAP and CDC on January 15, 2009 (Department Exhibit #5 – 18).

2. The department mailed the claimant a Verification Checklist (DHS-3503) on January 6, 2009, requesting the claimant return completed forms, including a DHS-3688 Shelter Verification form to be completed and returned by January 17, 2009 (Department Exhibit #39).

3. The claimant did not return the Shelter Verification form by January 17, 2009, so no shelter expense was budgeted, although a utility expense was budgeted.

4. The department used a 30 day average of the claimant and her husband's income to prospect the FAP budget income.

5. The budget for the claimant showed excess income for FAP benefits and CDC benefits (Department Exhibit #25, 28).

6. The claimant was mailed an Eligibility Notice on January 21, 2009, that indicated she was not eligible for FAP assistance due to excess income (Department Exhibit #27).

7. The claimant was mailed a Child Development and Care (CDC) Client Notice on January 21, 2009, that indicated the claimant was not eligible for CDC benefits due to excess income (Department Exhibit #30)

8. The claimant was an active MA recipient when the department received the claimant's income information, which showed she had an increase in the amount of income she was receiving. Therefore, the department completed a new budget for her MA case and discovered she had excess income for MA coverage. The claimant was switched to a MA deductible case and issued a spend-down of [REDACTED] per month (Department Exhibit #33).

9. The claimant was issued a notice informing her that she was no longer eligible for MA coverage due to excess income and indicating she would be eligible for a deductible of [REDACTED] each month (Department Exhibit #36). Her daughter remained covered by Healthy Kids MA.

10. The claimant submitted a hearing request on each of these changes on January 23, 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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are

contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

Wages

All Programs

Wages are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

Exception: Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
 - .. the past 30 days is not a good indicator of future income, and
 - ..
 - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

Note: The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and

- . the local office was at fault. PEM, Item 554, p. 2.

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

INCOME ELIGIBLE (CDC)

If the program group does not qualify for one of the categorically eligible groups, determine eligibility for the income eligible group.

Eligibility for this group is based on program group size and non-excluded income received by any member of the program group. (See program group definition in PEM 205).

CDC payments may be provided for income eligible clients who:

- . do not qualify as a member of a categorically eligible group;

- . have a valid need reason;
- . pass the income eligibility test;
- . cooperate with child support requirements (see PEM 255);
and
- . have child(ren) needing care who meet the U.S. citizenship/alien status requirements as described in PEM 225.

Test the program group's countable income against the Child Development and Care Income Eligibility Scale found in PRT 270, page 1. Department Pay Percent (PEM 705) varies depending on program group size and countable income for all program group members.

Eligibility for CDC for income eligible ends when:

- . the requirements are no longer met, or
- . the family has excess income, or
- . the need no longer exists. PEM, Item 703, pp. 14-15.

In this case, the department did properly budget the claimant's CDC, FAP and MA case.

Department policy requires the department to prospect future income by looking at 30 days worth of representative income for the benefit group members. The department took the claimant's last two paychecks (four weeks) of income and averaged it for the month to prospect her income. The department took three paychecks (six weeks) for the claimant's husband and dropped one paycheck because that paycheck had fewer hours than the claimant's husband usually worked, and averaged the remaining two paychecks.

The department could not include a shelter expense when the claimant's FAP budget was computed because the claimant had not completed and returned the Shelter Verification form. Department policy prohibits budgeting expenses that require verification until the verification is provided. This policy requires the department to determine eligibility and the benefit level

without the expense. Thus, the department was correct when they did not budget in a shelter expense because the Shelter Verification form had not been submitted.

The same income was used in the claimant's CDC budget. The budget showed the claimant had total monthly gross income of [REDACTED] which exceeds the allowable for her case of [REDACTED]. Policy states that eligibility for CDC ends when there is excess income. Therefore, the department did properly deny the claimant's application for CDC benefits due to excess income.

The claimant's MA was recomputed as the claimant had higher earnings than the last time her MA case had been budgeted. The claimant had excess income for MA coverage, therefore, the department computed her MA case as a deductible case. After the formula computations, her net income was [REDACTED] and the limit on her case was [REDACTED] which made her monthly deductible [REDACTED]. Department policy requires the department to take an MA case with excess income and convert it to an active deductible case.

Upon testimony and explanation of the budgeting process, the claimant testified that she did not disagree with how the department budgeted the CDC, FAP and MA benefit cases. The claimant indicated that her income and her husband's income had changed substantially since the time of her application. The claimant testified that she was back in school and her work hours were reduced and that her husband's work hours had been reduced as well. Therefore, this Administrative Law Judge suggested the claimant reapply for each program as the claimant's circumstances had changed, which could change the outcome of her eligibility for each program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly deny the claimant's CDC and FAP application

due to excess income. Also, the department did properly change the claimant's MA case to a deductible MA case due to the excess income.

Accordingly, the department's actions in this case are AFFIRMED. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 17, 2009

Date Mailed: March 17, 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.

SLK 

cc:

