

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: 2009-18307
Issue No: 1018; 2014; 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 11, 2009
Saginaw 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 June 11, 2009. The claimant personally appeared and testified.

ISSUES

1. Did the department properly determine that the claimant had excess income to receive Family Independence Program (FIP) benefits in March, 2009?
2. Did the department properly budget the claimant's Food Assistance Program (FAP) benefits in March, 2009?
3. Did the department properly determine the claimant had excess income for MA coverage and only qualified for a MA deductible case in March, 2009?

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 was receiving FIP, FAP and MA benefits when the department received information that indicated the claimant was receiving Unemployment Compensation Benefits (UCB) on March 5, 2009. An Unemployment Application Inquiry showed the claimant was receiving \$155.00 per week in UCB, beginning January 4, 2009. (Department Exhibit 8).

2. The department completed a FAP budget to reflect the UCB to be effective April, 2009. The department continued to budget the shelter expenses of rent and heating/cooling utilities. The claimant had a group size of four—the claimant, her daughter, her live-in boyfriend (although the claimant testified that they are married) and his child. This resulted in a FAP monthly benefit of \$541.00. (Department Exhibit 5 – 6).

3. The department completed a FIP budget to reflect the monthly UCB income. The budget showed excess income for a FIP grant. The department did not have any marriage certificate for the claimant, so the group size for the FIP group was two—the claimant and her daughter. (Department Exhibit 1 – 3).

4. The MA budget also showed excess income for the claimant to qualify for MA coverage. The claimant was eligible for a deductible MA case, with a monthly deductible of \$67.00. The claimant's daughter was eligible for the MA-L program. (Department Exhibit 1 -3).

5. The claimant submitted a hearing request on March 2, 2009.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program

replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

Department policy states:

INCOME

DEPARTMENT POLICY

All Programs

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

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and 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. PEM, Item 500, p. 1.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

DEPARTMENT PHILOSOPHY

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. PEM, Item 518, p. 1.

DEPARTMENT POLICY

FIP and SDA Only

Financial need must exist to receive benefits. Financial need exists when the eligible group passes both the "**Deficit Test**" and the "**Child Support Income Test**". To perform the deficit test, subtract the **program group's** budgetable income from the **eligible group's** Payment Standard (PEM, Item 515) for the benefit month. To meet the Child Support Income Test, the FIP group's countable

income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. PEM, Item 518, p. 1.

FINANCIAL NEED

FIP and SDA Only

Financial need exists if:

- . there is at least a \$1 deficit after income is budgeted, **and**
- . the group passes the Child Support Income Test.

Exception: A child support income test is not required for SDA groups. PEM, Item 518, p. 2.

If the group fails either test, the group is ineligible for assistance. Deny the application or close the case for the benefit month unless the group meets the conditions for Temporary Ineligibility of Extended FIP.

At application, if the group is ineligible due to excess income but a change is expected for the next benefit month, process the second month's benefit determination. If eligible, do not deny the application. PEM, Item 518, p. 2.

Determine eligibility for medical programs as part of the closure/denial process. See PEM 105 and 640. PEM, Item 518, p. 2.

Deficit Test

FIP and SDA Only

Compare the program group's budgetable income for the income month to the eligible group's payment standard for the benefit month. The group is ineligible for the benefit month if no deficit exists. PEM, Item 518, p. 2.

FIP GROUP COMPOSITION

DEPARTMENT POLICY

FIP

Group composition is the determination of which persons living together are included in the FIP program group and the eligible group. To be eligible for FIP, a child must live with a caretaker.

DEFINITIONS

Program Group

The **program group** means those persons living together whose income and assets must be counted in determining eligibility for assistance.

Note: Disqualified FIP members remain in the program group.

Eligible Group

The **eligible group** means those persons in the program group who meet all eligibility factors. **Exception:** Otherwise eligible persons who are serving an immunization penalty are included in the eligible group.

Caretaker

A **caretaker** is a parent, stepparent, or other person who acts as a parent to a dependent child by providing physical care and supervision of the child. See “Who May Be a Caretaker” later in this item.

Dependent Child

A **dependent child** is an unemancipated child who lives with a caretaker and is:

- . under age 18; **or**
- . age 18 or 19 and a full-time high school student expected to graduate before age 20.

A child is **emancipated** if:

- . validly married; **or**
- . emancipated by court order; **or**
- . in active duty with the armed forces of the United States.

Living Together

Living together means sharing a home where family members usually sleep except for temporary absences.

Primary Caretaker

The **Primary Caretaker** is the caretaker who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made.

Absent Caretaker

Once you have determined who is the Primary Caretaker, the child's other caretakers are considered **Absent Caretakers**.

Joint Physical Custody

Joint physical custody occurs when parents alternate taking responsibility for the child's day-to-day care and supervision. It may be included in a court order or may be an informal arrangement between the parents. PEM, Item 210, pp. 1-2.

DETERMINING THE PROGRAM GROUP

Determine which persons living together to include in the program group. Some persons are required to be in the program group and other persons may request to be included in the program group. PEM, Item 210, p. 3.

Mandatory Group Members

When assistance is requested for a dependent child, each of the following who live together must be in the program group:

- . the child; and
- . the child's parent(s); **and**
- . the child's siblings who meet the definition of a dependent child (siblings have at least one common parent); **and**
- . the parent(s) of the siblings; **and**
- . the child's stepparent; **and**
- . the child's stepsiblings who meet the definition of a dependent child; **and**
- . the child's child.

Exceptions: Exclude the following persons from the program group:

- . SSI recipients.
- . Children's foster care recipients, including the child of a foster care recipient when the foster care payment includes an amount for the child's needs.

Refusal of any of the above to apply causes ineligibility for all of the others. A refusal to apply is the refusal of information needed to determine eligibility. There are circumstances in which a group does not include a dependent child. See "Groups With No Child" in this item. PEM, Item 210, p. 3.

Who May be a Caretaker

A parent or stepparent living with a dependent child is the child's caretaker, for purposes of FIP group composition. See "**Three-Generation Group**" and "**Combined Groups**" in this item for exceptions regarding minor parents.

A person other than a parent or stepparent may be a caretaker only in the absence of the dependent child's parent or stepparent. A caretaker other than a parent or stepparent may be one of the following:

- . a relative who is at least age 18 and related to the child, by blood or adoption, as:
 - .. grandparent (including great or great-great)
 - .. aunt or uncle (including great or great-great)
 - .. sibling
 - .. stepsibling
 - .. nephew or niece
 - .. first cousin or first cousin once removed
 - .. the spouse of any of the above, even after the marriage is ended by death or divorce
 - .. the parent of the child's putative (alleged) father; **or**

Note: When a court order has terminated parental rights, the parent and child are no longer legally

related. However, the child's relationship to other relatives is not affected.

- . a legal guardian of the child; **or**
- . an adult who is at least age 21 and whose petition for legal guardianship of the child is pending, **or**
- . an adult, with whom DHS Children's Services has placed a child, subsequent to a court order identifying DHS as responsible for the child's care and supervision. PEM, Item 210, p. 4.

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.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that equal or exceed

the deductible amount for the calendar month tested. PEM, Item 545, p. 9.

The claimant's FIP group is only comprised of the claimant and her daughter. The claimant testified that she was married in March, 2006. However, the department had no copy of the marriage license in the file that had been submitted. Department policy indicates that a FIP program group is the child and the parent or caretaker. Policy further states that a person other than a parent or stepparent may be a caretaker only in the absence of the dependent child's parent or stepparent. PEM 210. In this case, the claimant, or mother of the child, is not absent, so the claimant's boyfriend (or husband, as the case may be) can not be in the program group unless he is the step-parent of the child and provides a marriage certificate to prove the relationship. Thus, the FIP program group was properly determined to be the claimant and her daughter. Once the claimant provides a copy of the marriage certificate, the claimant's husband and step-child could be added.

When a budget was run for the FIP program to include the UCB income, the claimant had excess income for the program, as she failed the deficit test. Department policy specifies that the deficit test is performed by subtracting the program group's budgetable income from the eligible group's Payment Standard (PEM 515) for the benefit month. The group is ineligible for the benefit month if no deficit exists. PEM 518. In this case, there was no deficit and the group was ineligible for FIP assistance.

The budget for MA also showed excess income. 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. PEM 545. The claimant had a protected income level of \$391.00 and had a net income of \$458.00. Thus, the claimant had excess income in the amount of \$67.00, which equals her monthly deductible for the MA deductible program.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$138 is allowed for each household. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$541.00.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the following:

1. The department properly determined that the claimant had excess income to receive Family Independence Program (FIP) benefits in March, 2009.
2. The department properly budgeted the claimant's Food Assistance Program (FAP) benefits in March, 2009.
3. The department properly determined the claimant had excess income for MA coverage and only qualified for a MA deductible case in March, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: July 9, 2009

Date Mailed: July 10, 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:

