

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.: 2009-19074
Issue No.: 2019/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 10, 2009
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on June 10, 2009. The Claimant personally appeared and testified.

ISSUE

1. Did the Department correctly calculate the Claimant's Food Assistance (FAP), benefits and deny her ongoing Medical Assistance (MA) due to excess income?
2. Did the department properly determine claimant's deductible amount?

FINDINGS OF FACT

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

- (1) The Claimant was an ongoing MA and FAP recipient. The group size was two (2).

- (2) On September 19, 2008, the Department performed a review for MA and FAP. The budgets prepared show a monthly FAP benefit of \$38.00 and a MA spend down of \$659.00 per month.
- (3) On March 30, 2009, the Claimant filed a request for a hearing contesting her FAP benefit and the amount of the deductible.

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 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 Tables (PRT).

The goal of the MA program is to ensure that essential health care services are made available to those who otherwise could not afford them.

The State of Michigan has set guidelines for income, which determines if a MA group is eligible. Income eligibility exists for the calendar month tested when:

MONTHS WITH EXCESS INCOME

Income eligibility exists for all or part of the month tested when the medical group's (defined in PEM 544, **“EXHIBIT I”**) allowable medical expenses (PEM 545, **“EXHIBIT I”**) equal or exceed the fiscal group's excess income. (PEM 545, p.2)

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 new income does not exceed the Group 2 needs in PEM 544. (PEM 166)

The protected income level is a set allowance for non-medical 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 MA group has income the same or less than the “protected income level” 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. The deductible program allows a claimant/client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. 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 for which it wants medical coverage. (PEM 545; 42 CFR 435.831)

The monthly protected income level for a MA group of two (2) living in Oakland County was \$541.00 per month. (RFT 240). In determining the net income a standard deduction of \$20.00 is deducted for SSI related MA recipients (disabled). In determining net income \$65.00

plus half the remaining amount is deducted from gross earned income. (PEM 536; 42 CFR 435.811. In addition, the cost of any health insurance premium is deductible. (PEM 544).

In the instant case claimant's net income is \$1,067.00, \$20.00 is deducted from the net income of \$1,087.00 and exceeds the monthly protected income level \$541.00 by \$526.00. Claimant argues that she is unable to pay the deductible per month because of limited means. This Administrative Law Judge does sympathize with the claimant in this instance, but does not have the prerequisite jurisdiction to change or alter department policy and state law. This ALJ finds that the department has erred in setting the claimant's deductible at \$659.00 per month it should be set at \$526.00 per month.

At the hearing the claimant states that she has presently 3 members in her FAP and MA groups but previously has had as many as five (5). This represents herself and four (4) grandchildren.

The evidence presented at the hearing does not warrant an increase in group members. The claimant brought along a friend to testify that she has seen all four grandchildren living with the claimant. This ALJ does not doubt the information given by the claimant or her friend that testified on her behalf but finds the department's documentation of custody residing with the grandchildren's mother and the documentation presented by the department showing that three of the grandchildren were members other FAP groups to be more compelling.

The claimant questions the amount of her FAP allotment. The Claimant has a net income of \$947.00 per month. This was obtained by subtracting the standard deduction of \$135.00, and the excess shelter amount of \$163.00, from the gross income of \$1,245.00.

The amount of a monthly FAP allotment is established by regulations at 7 CFR 273.10. A household of two persons with a net monthly income of \$947.00 was entitled to a monthly FAP grant of \$38.00 per month. (RFT 260, p. 9)

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the department to adjust the claimant's MA deductible accordingly. In addition, this Administrative Law Judge AFFRIMS the Department's actions finding that the claimant is receiving the correct monthly FAP allotment.

/s/
Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/18/09

Date Mailed: 08/18/09

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 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 receipt 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.

MJB/jlg

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