

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 200924311
200924312

[REDACTED]

ADMINISTRATIVE LAW JUDGE: **Kandra Robbins**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. This matter was originally assigned to [REDACTED]. [REDACTED] is no longer employed by the State Office of Administrative Hearings and Rules. This matter was reassigned to [REDACTED] to complete the decision after complete review of the record. The Claimants are a married couple. They each filed a hearing request regarding the Department's action. At the hearing, the Claimants and the Department requested to consolidate the two hearings into one. [REDACTED] received on April 28, 2009. After due notice, a telephone hearing was held on October 20, 2009. The Claimants were present and testified.

ISSUE

1. Did the Department properly determine Claimants' eligibility for Medical Assistance (MA)
2. Did the Department properly determine Claimants' eligibility for Medicaid Savings Program?
3. Did the Department properly determine the Claimants' Food Assistance Program application?

FINDINGS OF FACT

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

1. The Claimants were receiving Medicaid and FAP assistance.
2. The Claimants had a change in unearned income.
3. Mr. Geisinger received \$1282 in RSDI and Mrs. Overway-Geisinger received \$744.00 in RSDI. (Department Exhibit A pgs 8-9).
4. The Department recalculated the Claimant's FAP and MA budgets. (Department Exhibit A pgs 12-16).
5. The Claimant was sent a Notice of Action indicating a reduced FAP allotment of \$16.00 and a MA deductible of \$1490.00. The Claimants were not eligible for Medicare Savings Program. (Department Exhibit A, pgs 1-3).
6. On April 13, 2009, the Department received the Claimant's request for a hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM). Department Policy states:

BEM 550 DEPARTMENT POLICY

This item applies **only** to **FAP**.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits.

A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

Use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. **Always** calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered. Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. Document income budgeting on either a manually-calculated or an automated FAP worksheet.

BEM 505 DEPARTMENT POLICY DEFINITIONS ALL TOA

Income Income means a benefit or payment 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.

Countable Income Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level. **Earned Income** Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned; see BEM 504, Income from Rental/Room and Board. **Unearned Income** Unearned income is all income that is not earned. **Gross Income** Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. (BEM 500).

**BEM 105 DEPARTMENT POLICY
MA Only**

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).

SSI-RELATED AND FIP-RELATED The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories.

BEM 166 DEPARTMENT POLICY

MA Only

This is an SSI-related Group 2 MA category. Consider eligibility under this category only when eligibility does **not** exist under BEM 155 through 164, 170 or 171. Consider Medicare Savings Program eligibility (BEM 165) in addition to Group 2 MA. MA is available to a person who is aged (65 or older), blind or disabled. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

NONFINANCIAL ELIGIBILITY FACTORS

1. The person must not be eligible for MA under BEM 155 through 164, 170 or 171, but may be eligible for a Medicare Savings Program under BEM 165.
2. The person must be aged, blind or disabled (BEM 240, Age, or BEM 260, MA Disability/Blindness). The MA eligibility factors in the following items must be met.

- BEM 220, Residence.
- BEM 221, Identity.
- BEM 223, Social Security Numbers.
- BEM 225, Citizenship/Alien Status.
- BEM 255, Child Support.
- BEM 256, Spousal/Parental Support.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits.

FINANCIAL ELIGIBILITY FACTORS

Groups Use fiscal and asset group policies for SSI-related groups in BEM 211.

Assets Countable assets **cannot** exceed the asset limit in BEM 400. Countable assets are determined based on MA policies in BEM 400, 401 and 402.

Divestment Policy in BEM 405 applies.

Income Eligibility Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. Apply the MA policies in BEM 500, 530, 540 (for children) or 541 (for adults), and 544 to determine net income.

DEPARTMENT POLICY

MA Only

This item completes the Group 2 MA income eligibility process. Income eligibility exists for the calendar month tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit II), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).

- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

MONTHS WITH EXCESS INCOME

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

BEM 165 DEPARTMENT POLICY MA Only

Medicare Savings Programs are SSI-related MA categories. They are neither Group 1 nor Group 2. This item describes the three categories that make up the Medicare Savings Programs. The three categories are:

1. Qualified Medicare Beneficiaries
This is also called full-coverage QMB and just QMB. Program group type is QMB.
2. Specified Low-Income Medicare Beneficiaries
This is also called limited-coverage QMB and SLMB. Program group type is SLMB.
3. Q1 Additional Low-Income Medicare Beneficiaries
This is also referred to as ALMB and as just Q1. Program group type is ALMB.

There are both similarities and differences between eligibility policies for the three categories. Benefits among the three categories also differ. Income is the major determiner of category.

FINANCIAL ELIGIBILITY FACTORS

Groups Use fiscal and asset group policies for SSI-related groups in BEM 211.

Assets Countable assets **cannot** exceed the limit in BEM 400. Countable assets are determined based on MA policies in BEM 400, 401 and 402. **Income Eligibility** Income eligibility exists when net income is within the limits in RFT

242 or 249. Income eligibility **cannot** be established with a patient-pay amount or by meeting a deductible.

Determine countable income according to the SSI-related MA policies in BEM 500 and 530, **except** as explained in "COUNTABLE RSDI" below. Apply the deductions in BEM 540 (for children) and 541 (for adults) to countable income to determine net income.

COUNTABLE RSDI Federal law requires that for January, February and March:

- The RSDI cost-of-living increase received starting in January be disregarded for fiscal group members, and
- The income limits for the preceding December be used.

For all other months, countable RSDI means the countable amount for the month being tested.

For all other persons whose income must be considered, the RSDI cost-of-living increase is **not** disregarded.

BEM 400 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 BEM 402 for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and BEM 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 BEM 405.

SSI-Related MA

Asset Limit SSI-Related MA Only

For Freedom to Work (BEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA'S and 401(k)'s) may be of unlimited value. For Medicare Savings Programs (BEM 165) and QDWI (BEM 169) the asset limit is:

- [REDACTED] for an asset group of one.
- [REDACTED] for an asset group of two.

For all other SSI-related MA categories, the asset limit is:

- [REDACTED] for an asset group of one.
- [REDACTED] for an asset group of two.

BEM 544 DEPARTMENT POLICY MA Only

Apply the policies in this item to all FIP- and SSI-related Group 2 MA categories. Use the appropriate protected income level (defined below) for each fiscal group. Include other need items **only** when the fiscal group meets the requirements for them. Determine the fiscal group's total needs. Then go to BEM 545 to complete the income eligibility determination.

PROTECTED INCOME LEVEL

The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA PILs based on shelter area and fiscal group size. RFT 200 lists the counties in each shelter area. For **past months**, use the shelter area for the county the fiscal group lived in on the last day of the month tested. For **all other months**, use the shelter area for the county the fiscal group lives in on the processing date.

The Claimant is also disputing the Department's determination of her MA application. In compliance with Department policy, the Department determined if there was any MA category that the Claimant would be eligible. It was determined that the Claimant qualifies as a group 2 blind, aged or disabled as defined in BEM 166. The Department

is required to use all of the group's income. The group includes both [REDACTED] [REDACTED]. The Department calculated the Claimants' income as [REDACTED]. This is the total unearned income as a result of [REDACTED] RSDI of \$ [REDACTED] and [REDACTED] exclusion of [REDACTED] bringing the net unearned income to [REDACTED]. The Claimants resides in Ottawa County. RFT 200 indicates that this county is Shelter group V. The protected income limit for a group size of 2 in shelter area V is [REDACTED]. RFT 240. After deducting the protected income amount from the Claimants' income, the Claimant has a deductible of [REDACTED]. The Department properly determined that the Claimant was eligible for MA as a Group 2 blind, aged, or disabled. However, the Claimants had excess income. Therefore, they have a deductible of \$ [REDACTED]

The Medical Share Program has an income eligibility requirement. BEM 165. The income limits are listed in RFT 242. Mr. and [REDACTED]ger have an income limit of [REDACTED]. The Claimants' have a monthly income of [REDACTED]. Therefore, their income exceeds the program limits as defined by policy. They are not eligible for the Medical Share Program.

The Department is required to count the Claimants' total gross income in determining the Claimants' eligibility for FAP benefits. The Claimants properly reported unearned income to the Department. The Department recalculated the FAP benefit based on the total net income. The Claimants had a combined total RSDI income of [REDACTED]. The Department determines a FAP group's net income by deducting certain standard deductions. They were given the standard deduction of [REDACTED]. Department policy also permits the deduction of certain expenses. These [REDACTED] and a heat and utility deduction of [REDACTED]. After calculating the standard deductions, the Claimant had a total net income properly calculated to be [REDACTED]. The federal regulations provide standards for income and the amount of household benefits. In accordance with federal regulations, the Department has prepared income and issuance tables which can be found at RFT 250 and 260. The Department properly determined the Claimants' FAP benefit as [REDACTED]

