

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: 2009-30669
Issue No: 2026, 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 27, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on August 27, 2009. The Claimant appeared and testified. Raven Florence, ES and Delores McGargal, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly determined the Claimant's Medical Assistance ("MA") deductible amount?

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 7/14/09?

FINDINGS OF FACT

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

1. Claimant was a MA and FAP recipient.

2. Claimant underwent an annual review in July in 2009.
3. A budget was completed on July 14, 2009 which determined Claimant's MA deductible to be \$787.00. (Exhibit 1, pp. 4-7).
4. A Food Assistance Budget was compiled dated July 14, 2009. (Exhibit 1, p. 1).
5. Claimant has a household group of four (4) persons.
6. Claimant produced earnings statements showing gross earned income of \$210.00/week for Claimant's husband. (Exhibit 1, p. 8).
7. In addition, Claimant testified that her husband receives about \$300.00/week in tips. See also, Exhibit 1, p. 9.
8. The Claimant testified that she is responsible for all utilities in her home.
9. The Claimant testified that her rental obligation at the time of application was \$0 per month.
10. Following the July, 2009 budget, monthly FAP benefits were calculated in the amount of \$183.00/month. (Exhibit 5).
11. Claimant objected to the MA and FAP calculation and filed this appeal. The Department received the Claimant's Request for Hearing on July 21, 2009.

CONCLUSIONS OF LAW

A. MA

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, formally 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 goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105, p. 1. Medicaid is also known as Medical Assistance (“MA”). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* 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. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. PEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. Financial eligibility for Group 1 exists when countable income minus allowable expenses equals or is below certain income limits. PEM 105, p. 1. The income limits vary by category and are for non-medical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for FIP and SSI related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual’s protected income level (PPI) must be determined. The PPI is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. If fiscal group has net income that is the same or less than the PPI, RFT 240, then it will qualify for MA.

If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program. A deductible 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 CRF 435.831.

An adult's fiscal group is the adult, and the adult's spouse. PEM 212, p. 5. The monthly protected income level for a Medical Assistance group of two (2) living in Wayne County is \$500.00 per month. RFT 240, RFT 200. In determining net income a standard deduction of \$20 is deducted for SSI related Medical Assistance recipients. Health insurance premiums for the disabled individual can be added to the PPI to determine the Claimant's deductible.

In the present case, claimant's net income of \$1287 exceeds the monthly protected income level by \$787.00 per month. Claimant is consequently ineligible to receive Medical Assistance. However, under the deductible program, if Claimant or her husband incurs medical expenses in excess of \$787.00 during the month, she may then be eligible for Medical assistance.

Claimant argues that she is unable to pay the deductible per month for her medical expenses because of limited means. This Administrative Law Judge sympathizes with the Claimant, but does not have the jurisdiction to change or alter department policy and state law at this time. Therefore, the undersigned finds that the Department has acted in accordance with department policy and law in setting a deductible.

Accordingly, the Department's decision is **AFFIRMED**.

B. FAP

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”). The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Unearned income includes SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

According to the aforementioned policy on budgeting, Claimant’s budget, earned income was \$2,193.00 for a net monthly income of \$1616.00. This was obtained by subtracting the standard deduction of \$138.00 and the excess shelter amount of \$0.00 from 80% of the gross income (\$688.00) plus unearned income of \$2,193.00. The amount of food assistance allotment

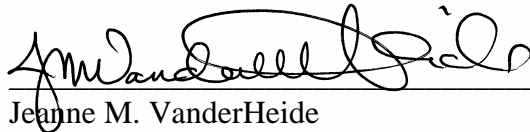
is established by regulations at 7 CFR 273.10. A household of four people with a net monthly income of \$1616.00 is entitled to a monthly FAP grant of \$183.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it calculated the Claimant's MA and FAP benefits

Accordingly, it is ordered that the Department's determination is AFFIRMED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/22/09

Date Mailed: 09/22/09

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 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.

JV/dj

cc:

