

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.: 2009-36626

Issue No.: 2026/3002

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 3, 2010

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was conducted from Warren, Michigan on Wednesday, February 3, 2010. The Claimant appeared and testified, along with [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits?

Whether the Department properly calculated and notified the Claimant of the Medical Assistance ("MA") deductible based upon excess income?

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 is a FAP and MA recipient.
2. In March of 2009, the Department reviewed the Claimant's case.

3. The Claimant's monthly FAP allotment was calculated as \$14.00. (Exhibit 5)
4. On March 24, 2009, the Department notified the Claimant of the \$576.00 MA deductible. (Exhibit 6)
5. The Claimant receives \$223.00 each month in RSDI benefits. (Exhibit 4)
6. The Claimant receives a monthly pension amount of \$781.06. (Exhibit 3)
7. The Claimant has a monthly shelter obligation of \$575.00, which includes heat, and pays \$93.00 each month for non-heat electric expense. (Exhibit 1)
8. The Claimant pays for monthly prescription medication.
9. The Claimant is responsible for a monthly telephone expense.
10. The Claimant's group size is one.
11. The Department received the Claimant's written request for hearing protesting the reduction FAP benefits and the MA deductible.

CONCLUSIONS OF LAW

In the record presented, the Claimant requested a hearing regarding the calculation of her FAP allotment as well as the MA deductible amount. Each program will be addressed separately.

FAP benefits

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"), formerly 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”).

Group composition is the determination of which persons living together are included in the FAP program group. PEM 212 All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. PEM 500 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554 Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment unless the client is billed for excess heat payments from the landlord, or the client reports that they have received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address. *Id.* A standard telephone deduction is used when a FAP group, which has no heating/cooling expense, is responsible to pay at least the basic fee required to maintain a telephone. *Id.* Renter’s insurance is not an allowable expense. *Id.*

In this case, the department properly included the Claimant’s unearned income, non-heat electric and telephone expense. The Claimant contends that she submitted incurred medical expenses which were not allowed. In addition, the Department used the incorrect monthly rental obligation of \$525.00 as opposed to \$575.00. During the hearing, the Claimant submitted verification of her rental insurance obligation. As noted above, renter insurance is not an allowable expense. Ultimately, it is found that the Claimant’s FAP budget is not correct.

MA deductible

The Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the DHS pursuant to

MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the PAM, PEM, and 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 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.*

FIP- and SSI-related Group 2 eligibility is possible even when net income exceeds the income limit because incurred medical expenses are considered. *Id.* Eligibility is determined on a calendar month basis. PEM 105 MA income eligibility exists for the calendar month tested when there is no excess income or allowable medical expenses that equal or exceed the excess income. PEM 545 The fiscal group’s monthly excess income is called a deductible amount. PEM 545 Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. *Id.*

In this case, the Claimant agreed with the figures used in determining MA eligibility but disagreed with the deductible amount. Ultimately, the Department acted in accordance with Department policy when it calculated the Claimant’s MA budget thus the Department’s MA determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's FAP determination is not correct. It is further found that the Department acted in accordance with department policy when it determined the Claimant's MA deductible.

Accordingly, it is ORDERED:

1. The Department's FAP determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP allotment effective April 2009 in accordance with department policy.
3. The Department shall supplement for any lost benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.
4. The Department's MA determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/02/2010

Date Mailed: 3/02/2010

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.

CMM/jlg

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