

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.: 2010 37768
Issue No.: 2026, 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 28, 2010
Wayne County DHS (35)

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 June 28, 2010. The Claimant appeared and testified.

[REDACTED] appeared on behalf of Claimant. [REDACTED], FIM and [REDACTED], FIS, appeared on behalf of the Department.

ISSUE

1. Whether the Department properly determined the Claimant's Medical Assistance ("MA") deductible amount?
2. Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits effective 2/1/10?

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 an active FAP and MA (group 2 caretaker) recipient.
2. Claimant had a baby on 3/17/10. Claimant timely reported the birth of the child, but the child was not added to the FAP group until June, 2010.
3. Claimant's household began receiving Unemployment Compensation Benefits of \$664.00 biweekly at the end of February, 2010. (Exhibit 1).
4. A FAP budget was completed effective 2/1/10 which determined Claimant's FAP award to be \$415.00 down from \$668.00 in January, 2010.
5. A new FAP budget was completed in June, 2010 awarding Claimant \$549.00 in FAP benefits. (Exhibit 2).
6. Following the 6/10 FAP budget and inclusion of the baby born in March, 2010, the Department issued Claimant a supplement in the amount of \$134.00.
7. The evidence shows that as of 3/17/10, there are five (5) people in Claimant's group.
8. The Claimant testified that she is responsible for rent in the amount of \$1,200.00 per month inclusive of gas and electricity.
9. Claimant requested a hearing contesting the department's determination that Claimant is required to pay a deductible, the amount of the deductible and the amount of FAP benefits.

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, formally known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq* and MCL 400.105. 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 Bridges Administrative Manual (“BAM”), the BEM Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

A. FAP

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/BEM 550. Under 7 CFR 273.9, as amended, \$170.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 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.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group’s net income.

In the present case, according to the aforementioned policy on budgeting, Claimant’s shelter costs equal \$1,200.00 (A). $50\% \text{ of the income less deductions} = \635.00 (B). ($A -$

$\$1200 - (B - \$635) = \$565.00$, but the maximum shelter amount is $\$459.00$. Claimant has a net monthly income of $\$809.00$. This was obtained by subtracting the standard deduction of $\$170.00$ and the maximum excess shelter amount of $\$459.00$ from the gross income of $\$1,438.00$. A household of four people with a net monthly income of $\$809.00$ is entitled to a monthly FAP grant of $\$425.00$ per month. RFT 260. A household of five people with a net monthly income of $\$809$ is entitled to a monthly FAP grant of $\$550.00$ per month. Claimant has received benefits as follows:

Month	FAP Due	FAP received	Deficiency
February	\$425.00	\$415.00	\$10.00
March	\$425.00	\$415.00	\$10.00
April	\$550.00	\$415.00	\$135.00
May	\$550.00	\$415.00	\$135.00
June	\$550.00	\$549.00	\$1.00
Supplement (April, May, June)		\$134.00	- \$134.00

Total remaining due to Claimant is $\$157.00$ in FAP benefits. Accordingly, based on the above reference findings of fact and conclusions of law, the Department's FAP determination is REVERSED.

B. MA

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. BEM 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. BEM 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. BEM 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. BEM 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. BEM 545; 42 CRF 435.831.

In order to determine Group 2 FIP Related MA \$90 is deducted from the countable earnings of each fiscal group member with earnings. Then another \$30.00 is deducted plus 1/3 of a fiscal group member's remaining earned income if the member receipt FIP or LIF in at least 1 or 4 calendar months preceding the month being tested. There are also deductibles applied for dependent care expenses, and child support paid. The next step is to determine the prorate divisor (2.9 is added to the number of dependents) which determines the individual's prorated share. The group's net income is then divided by the prorate divisor. Finally, in order to determine the non parent caretaker's prorated share divide the personal total net income by the non-parent caretaker relatives prorate divisor. The result is the prorated share of the fiscal group member's income for purposes of determining the member's eligibility. PEM 536, pp. 3-4. Income eligibility exists for a person requesting MA when the net income of the person's fiscal group does not exceed the appropriate poverty level in RFT 246 and if the individual income is below the monthly protected income level by shelter area. RFT 200. The monthly protected income level for a Medical Assistance group of one living in Wayne County is \$375.00 per month. RFT 240, RFT 200.

1) February & March, 2010

In the present case, Claimant testified that she was receiving \$332.00 per week in UCB which prospectively is \$1,438.00 per month ($\$332.00 \text{ per week} \times 52 \text{ weeks}/12 \text{ months}$). In February (before Claimant's baby was born), Claimant's personal net income would have been $\$1,438 / (2.9 + 2 \text{ dependants}) \times 2.9 = \851.00 . In February and March, 2010, therefore, Claimant's personal net income of \$851 exceeded the monthly protected income level by

\$476.00 per month. Claimant was consequently ineligible to receive Medical Assistance. However, under the deductible program, if Claimant incurred medical expenses in excess of \$476.00 during the month, she would then have been eligible for Medical assistance.

2) April, 2010 forward

After Claimant's baby was born, Claimant's MA budget would have been calculated with five dependents. $\$1438 / (2.9 + 3 \text{ dependants}) \times 2.9 = \706.00 . Therefore, from April, 2010 forward, Claimant's personal net income of \$706 exceeded the monthly protected income level by \$331.00 per month. Claimant was consequently ineligible to receive Medical Assistance. However, under the deductible program, if Claimant incurred medical expenses in excess of \$331.00 during the month, she would then have been eligible for Medical assistance.

Accordingly, based on the above findings of fact and conclusions of law, the Department's MA decision is REVERSED.

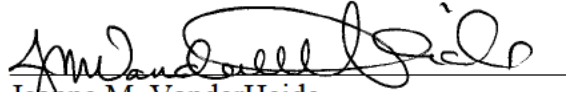
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department did not act in accordance with department policy when it calculated the Claimant's MA benefits and FAP benefits February, 2010 – June, 2010.

Accordingly, it is Ordered:

1. The Department's FAP calculations effective 2/1/10 – 6/1/10 are REVERSED.
2. The Department shall reprocess Claimant's FAP benefits for the months of February through June, 2010 using the budgets as set forth above.
3. The Department's MA determination from 2/1/10 – 6/1/10 is REVERSED.
4. The Department shall allow Claimant to submit evidence of medical expenditures for the months of February, 2010 – June, 2010 to determine if Claimant met the deductible as set forth in the budgets above.

5. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.


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

Date Signed: 07/13/2010

Date Mailed: 07/13/2010

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.

JV/cjp

cc:

