

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

IN THE MATTER OF:



Reg. No.: 2010-26627, 2010-43191
Issue No.: 2013, 3002, 4000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 4, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Jeanne 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, an in-person hearing was conducted from Taylor, Michigan on August 4, 2010. The Claimant did not appear. Claimant was represented by her legal guardian, [REDACTED], at the hearing. [REDACTED], FIM and [REDACTED], ES appeared on behalf of the Department.

ISSUE

1. Whether the Department is entitled to recoupment of benefits effective 4/1/10?
2. Whether the Department properly denied the Claimant Medical Assistance ("MA") Ad-Care benefits?
3. Whether the Department properly calculated the Claimant's Food Assistance Program ("FAP") benefits, including RSDI unearned income and whether the Department is entitled to recoupment?
4. Whether the Department properly calculated Claimant's MA spend down effective 4/1/10?

FINDINGS OF FACT

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

1. Claimant's legal guardian applied for FAP, SDA and MA benefits for Claimant on 11/5/09. (Exhibit A, p. 2)

2. Full MA-Ad Care, SDA and FAP benefits of \$200 per month were approved.
3. The Department mistakenly failed to include Claimant's RSDI gross income of \$1153.00 in the MA, SDA or FAP budgets. (Exhibit 2, pp. 1-3).
4. The Department also mistakenly attributed the SDA to the Claimant rather than her legal guardian as a caregiver.
5. At the hearing, the Department agreed that SDA caregiver benefits should have been opened in [REDACTED] name rather than Claimant's name. The Department further agreed to open a case in [REDACTED] name applying SDA to her as caregiver rather than Claimant for all dates that [REDACTED] had no income. The Department further agreed that there would then have been no overissuance of SDA benefits to Claimant.
6. As a result of this agreement, Claimant, through her representative, indicated that she no longer wished to proceed with the remainder of the hearing regarding SDA benefits.
7. The Department compiled a FAP budget including Claimant's RSDI income which resulted in a FAP award of \$103.00 per month. (Exhibit 1, p. 19-20).
8. The Claimant testified, through her representative that there were regular medical bills incurred on a monthly basis including a monthly health care premium of \$96.40. (Exhibit 2, p. 1)
9. Claimant testified that she is responsible for \$655.00/month in rent plus utilities.
10. Claimant was initially awarded \$200.00 per month in FAP benefits. (Exhibit 2, p. 4)
11. On 3/30/10, the Department sent Claimant a notice of overissuance for \$184.00 for FAP. (Exhibit 2, p. 15).
12. A 4/1/10 MA Ad-Care budget reveals that Claimant's RSDI income caused her to be over income for full medicaid. (Exhibit 2, p. 10).
13. The Department compiled a MA budget on 4/1/10 including Claimant's RSDI income resulting in a MA spend down of \$758.00 per month. (Exhibit 2, p. 12).
14. On March 10, 2010 and on April 8, 2010, the Department received Claimant's hearing request contesting the overissuance, the SDA determination, the FAP award and the MA spend down amount.

CONCLUSIONS OF LAW

A. SDA

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies

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are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case the Department has agreed that the SDA case was improperly opened and paid in Claimant's name, rather than her guardian, [REDACTED] name as a care giver. The Department has agreed to open a SDA caregiver case in [REDACTED] name from the date of application forward for every month that [REDACTED] did not have any income and apply the payments made to Claimant to [REDACTED] case resulting in no overissuance of SDA to Claimant. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing. Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The federal regulations define household income to include all earned and unearned 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, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants. Medical expenses can also be deducted for SDV members. Under 7 CFR 273.9 deductions for excess shelter are also made. 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 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, the Administrative Law Judge has personally reviewed the FAP budgets and finds them to be incorrect. Claimant was receiving \$1153.00 gross RSDI income. \$96.40 was deducted from Claimant's RSDI monthly as a Medicare premium payment. Claimant also has additional ongoing medical expenses. These medical expenditures were not taken into consideration in the FAP budgets. Claimant is entitled to credit for the full utility deduction of \$555.00 per month in addition to the \$655.00 she pays in rent. Furthermore, Claimant is entitled to the full shelter deduction as an SDV member. It is apparent that the budgets were incorrectly calculated as there was no recognition that Claimant was a SDV member for the shelter or the medical deductions.

Based upon the foregoing facts and relevant law, it is found that the Department's calculation of FAP benefits is REVERSED. The Department shall recalculate FAP benefits taking into account the shelter deductions listed above, Claimant's Medicare premium and any other medical costs which Claimant incurred on a monthly basis from the date of application forward. Furthermore, any FAP overissuance is REVERSED.

C. 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

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.

The monthly income limit for AD-Care full coverage is \$903. RFT 242. 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. 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, the Department properly closed the MA Ad-Care case as Claimant's income was over \$903.00. In determining Claimant's deductible, the MA budget did not include Claimant's insurance premium of \$96.00. Including the insurance premium, Claimant's net income of \$1133 exceeds the monthly protected income level by \$662.00 per month. Claimant is consequently ineligible to receive Medical Assistance. However, under the deductible program, if Claimant incurs medical expenses in excess of \$662.00 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.

Accordingly, based on the above referenced findings of fact and rules of law, the undersigned finds that the Department did not act in accordance with department policy and law in setting a deductible. It is found that the Department's MA spend down is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant MA Ad-Care benefits as Claimant was over income.

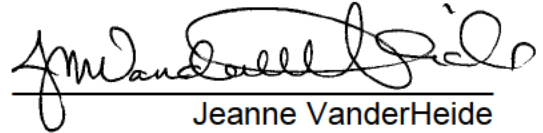
Furthermore, the Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly determined Claimant's SSI related Group 2 MA spend down, improperly determined the Claimant's FAP benefits, improperly determined SDA benefits which should have been attributed to [REDACTED], Claimant's caregiver, and improperly recouped based on incorrect budget calculations.

Accordingly, it is Ordered that

1. The Department's current 3/10 recoupment action is REVERSED.
2. The Department shall open a SDA caregiver case in the name of [REDACTED] and attribute SDA funds paid to Claimant to [REDACTED] for all months that [REDACTED] had no income.
3. The Department shall reprocess the Claimant's FAP case from the date of application forward utilizing the full shelter deduction for SDV members and deductions for SDV medical expenditures including the Medicare premium of \$96.40 which will be provided by Claimant pursuant to applicable policy.

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4. The Department shall recalculate Claimant's MA spend down including the monthly Medicare premium of \$96.40 paid by Claimant in the PPI amount.
5. The Department shall supplement Claimant with any benefits to which she is entitled as a result of implementation of this Order including returning any benefits which were recouped based on the above faulty budget calculations.



Jeanne VanderHeide
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/09/2010

Date Mailed: 08/09/2010

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 of the rehearing decision.

JV/CJP

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