

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: 2010-12087

Issue No: 3002; 2026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 2, 2010

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 2, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly determine the claimant should have a \$584 monthly deductible for her Medical Assistance (MA) program beginning in August, 2009?
2. Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in August, 2009?

FINDINGS OF FACT

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

1. The claimant was active on FAP and on a MA deductible when the State of Michigan began paying her Medicare Part B premium (\$96.40). (Department Exhibit 5, 6, 19).

2. This caused her MA deductible to increase to \$584. (Department Exhibit 5).
3. The claimant is a Senior, Disabled or Veteran household and is entitled to deduct her medical expenses as deductions on her FAP budget.
4. The August, 2009 FAP budget shows that the claimant was given a medical deduction of \$61 and a FAP benefit amount of \$325. (Department Exhibit 11 – 14).
5. The September, 2009 FAP budget shows that the claimant was given a medical deduction of \$475 and a monthly FAP benefit of \$367. (Department Exhibit 7 – 10).
6. The claimant's RSDI has not changed and is budgeted at \$955 monthly. (Department Exhibit 19).
7. The department provided a copy of the medical expenses that have been entered for the claimant in the previous months. These entries show that the claimant has met or exceeded her MA deductible in each of the preceding months, except for July and August, when she was only dollars away from meeting her deductible. (Department Exhibit 22).
8. The claimant submitted a hearing request on October 27, 2009.

CONCLUSIONS OF LAW

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

**RETIREMENT, SURVIVORS, AND DISABILITY
INSURANCE (RSDI) (AKA SOCIAL SECURITY
BENEFITS)**

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. PEM, Item 500, p. 1.

INCOME DEDUCTIONS

- . Groups **with** one or more SDV member:
 - .. dependent care expense up to the maximum in RFT 255; and
 - .. excess shelter, and
 - .. court-ordered child support and arrearages paid to non-household members, and medical expenses for the SDV member(s) that exceed \$35 PEM, Item 554, p. 1.

FIP and SDA Only

Income deductions are available at both the member and the group level. Apply deductions in the order they are presented in this item. PEM, Item 518, p. 4.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. PEM, Item 554, p. 9.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance

payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

MEDICAL EXPENSES

Estimated Medical Expense

Estimate an SDV person's medical expenses for the benefit period. A FAP group may voluntarily, but cannot be required, to report changes during the benefit period.

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. See **Expenses for Disqualified or Ineligible Persons** in this item.

The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow **only** the non-reimbursable portion of a medical expense.

Note: Any incurred current medical expense that is applied toward a Medicaid spend-down is also an allowable FAP medical expense. PEM, Item 554, p. 6.

The claimant's first hearing issue is to inquire why her MA deductible increased from \$487 to \$584 per month. The claimant's deductible increased by this amount because the State started paying her Medicare Part B premium. Prior to August 1, 2009, the claimant had been paying her Part B premium. Therefore, when the claimant stopped paying the premium and the State started paying the premium, it could no longer be included in the MA deductible figures as a client pay amount. Therefore, the claimant's MA deductible went up by \$96 in August, 2009, for the amount of the premium (\$96.40).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. A standard deduction from income of \$135 is allowed. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department did not properly compute the claimant's FAP benefits. The earned income is not at issue as it appears to be correct. The only issue is the medical deductions. The claimant is entitled to deduct the non-reimbursable portion of a medical expense; this includes any incurred current medical expense that is applied toward a Medicaid spend-down. Documentation provided by the department on the medical expenses incurred by the claimant show that she has met her deductible in recent months, except for July and August, when she was only dollars away from meeting her deductible.

Therefore, the wide variation in amounts of medical deductibles that were included in the claimant's FAP budget can not be accurate. For example, the claimant was only given \$61 in medical deductions for the month of August, 2009. The claimant was given \$475 in medical deductions for the month of September, 2009. However, the claimant's medical expenses remain virtually the same, as she almost always meets her deductible. Thus, there should not be such a discrepancy between the medical expense amounts.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that

1. The department properly determined the claimant should have a \$584 monthly deductible for her Medical Assistance (MA) program beginning in August, 2009.
2. The department improperly budgeted the claimant's FAP benefits beginning June, 2009.

Accordingly, the department is partially UPHELD and partially REVERSED. The department shall:

1. Rebudget the claimant's FAP budget beginning August, 2009 to accurately reflect the proper medical expense deductions and provide the claimant with a Notice of Case Action indicating the results.
2. Once corrected, issue the claimant any retroactive FAP benefits she is entitled to.

SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2010

Date Mailed: April 6, 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 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.

SLK [REDACTED]

cc:

[REDACTED]