

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: 2010-16674
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 22, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

REHEARING 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 reconsideration hearing was held on March 22, 2010.

A rehearing was ordered to consider whether or not the Department properly included medical expenses into the FAP budget. Claimant appeared and testified.

ISSUE

Did the Department properly calculate Food Assistance Program benefits?

FINDINGS OF FACT

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

1. On August 1, 2009, the Department completed a new FAP budget. This new budget resulted in a reduction in FAP benefits.
2. Claimant has social security income of \$772, a shelter expense of \$764.
3. A hearing was held on January 4, 2010.

4. On January 21, 2010, a decision was issued AFFIRMING the Department's FAP budget.
5. On January 27, 2010, a request was received from the Claimant requesting reconsideration.
6. On February 24, 2010, an order of rehearing was issued.

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) 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).

In the present case, Claimant asserts the Department failed to consider all of her medical expenses when completing the FAP budget. The Claimant indicated she has several ongoing prescriptions which she in fact pays at least \$17.40 a month to obtain. In addition, the Claimant also purchased a script that was not covered in the month of August which was not considered at the amount of \$32.40. The Claimant also testified she started paying for dental insurance in November in the amount of \$52 a month.

Relevant policy can be found at: BAM 554, p. 7-9:

Allowable Medical Expenses

Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

- Hospitalization or nursing care. Include these expenses for a person who was a group member immediately prior to entering a hospital or nursing home.
- Prescription drugs and the postage for mail-ordered prescriptions.
- Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets).
- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s).
- Medicare premiums.
- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal. (Animal food and veterinary expenses are included.)
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dmb, select Agency Services from the left navigation menu, then select Travel. On the travel page, choose [Travel Rates and High Cost Cities](#) using the rate for the current year.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical

expense and a dependent care expense, it **must** be treated as a medical expense.

- A Medicaid deductible is allowed if the following are true.
- The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.

The medical expenses are not overdue. See below.

Estimating and Determining an Allowable Medical Expense

Estimate an SDV person's medical expenses for the benefit period. 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.

- The medical bill cannot be overdue.
- The medical bill is **not** overdue if one of the following conditions exists:
 - Currently incurred (for example, in the same month, ongoing, etc.).
 - Currently billed (client is receiving the bill for the first time for a medical expense provided earlier and the bill is not overdue).
 - Client made a payment arrangement before the medical bill became overdue.

VERIFICATION

Verify allowable medical expenses including the **amount of reimbursement**, at initial application and redetermination. Verify reported changes in the source or amount of medical expenses if the change would result in an increase in benefits.

Do not verify other factors, unless questionable. Other factors include things like the allowability of the service or the eligibility of the person incurring the cost.

VERIFICATION SOURCES

- Acceptable verification sources include, but are not limited to:
 - Current bills or written statement from the provider, which show all amounts paid by, or to be paid by, insurance, Medicare or Medicaid.

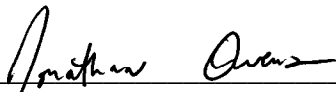
- Insurance, Medicare or Medicaid statements which show charges incurred and the amount paid, or to be paid, by the insurer.
- DHS-54A, Medical Needs, completed by a licensed health professional.
- BENDEX for Medicare premiums.
- Written statements from licensed health care professionals.
- Collateral contact with the provider. (Most commonly used to determine cost of dog food, over-the-counter medication and health-related supplies, and ongoing medical transportation).

The Department appears to have not considered all allowable medical expenses when calculating the Claimant's FAP budget in August 2009. Therefore, the Department will need to re-determine FAP benefits after securing verifications as needed to determine the proper amount of medical expenses to be included in the Claimant's FAP budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services was not acting in compliance with Department policy.

Accordingly, the Department's decision is REVERSED and the Department is ORDERED to re-determine Claimant's FAP benefits from August 2009 forward to include medical expenses. The Department shall supplement the Claimant for any loss in FAP benefits if otherwise eligible.


Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/15/10

Date Mailed: 04/15/10

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.

JWO/dj

cc:

