

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: 20101740
Issue No: 3002; 3003;
2006;2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 10, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on December 10, 2009.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

Was the claimant's Medicaid deductible computed correctly?

Was the claimant's Medicaid application properly denied for failure to return proof of citizenship?

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 applied for FAP and MA in Oakland County.
- (2) Claimant's FAP budget was calculated to be \$0 due to excess income.

- (3) Claimant's FAP budget was calculated using claimant's income, which was irregular.
- (4) This income was calculated using income more than 90 days old and didn't take into account weeks where claimant received no income.
- (5) This resulted in a FAP budget of \$0.
- (6) This income amount also affected claimant's MA deductible.
- (7) Claimant's Medicaid application was also denied for three members of the group for failing to return verification of citizenship.
- (8) No negative action notice was ever sent before case closure.
- (9) Claimant filed for hearing on September 22, 2009, alleging that DHS incorrectly computed her budget.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual

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

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. BEM 500. A standard deduction from income of \$132 is allowed for households of claimant's size. 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 \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each shelter expense. Policy states that \$34 allowed to be claimed for telephone expenses, and \$102 is allowed to be claimed for non-heat electricity expenses, regardless of the actual bill. \$555 dollars may be claimed if the claimant has heating costs. \$57 may be claimed for water or sewer expenses.

With regard to income that is irregular, the Department is to take income from the last 60 or 90 days that is reflective of claimant's true income and average the amount over the number of weeks of income in order to arrive at the average weekly income. BEM 505.

In the current case, the Administrative Law Judge is unable to determine whether the Department computed the claimant's FAP budget correctly. The Department took claimant's paychecks from a time period greater than 90 days, added these paychecks up, and divided by the number of paychecks. This method was incorrect—for several of the weeks involved, claimant

received \$0 in income, and these weeks were not averaged into the final total. As such, claimant's income used in the budget was far higher than the actual income for the group. This is clear error, and the Department should recalculate.

This income amount was also used for the Medicaid budget. As the income amount is wrong, this means the MA budget is wrong, and should be recalculated.

Finally, with regard to claimant's failure to return citizenship verifications, it should be noted that claimant was never sent a negative action notice, by the Department's own admission. Negative action notices are required by policy for all application denials. BAM 220. Therefore, claimant's application should not have been denied until she was notified of the negative action. Claimant credibly testified that she did not receive a request for verification; as such, the Department should re-request those verifications before sending a negative action notice.

DECISION AND ORDER

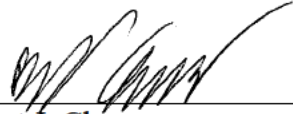
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's budget was incorrect. Furthermore, the Department was in error when they closed claimant's case without a negative action notice.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to recalculate claimant's FAP budget and MA budget, using the correct income amounts and remembering to take into account weeks where the claimant's income was \$0, and issue any supplemental benefits to which the claimant may be entitled, in accordance with policies found in the Brides Administrative and Eligibility Manuals.

The Department is FURTHER ORDERED to re-register claimant's Medicaid application back to the date of application, and re-request verifications of citizenship.

Claimant is ORDERED to supply the Department with verifications of citizenship upon request, in a timely manner, as is consistent with verification policy found in BAM 130.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/15/10

Date Mailed: 06/18/10

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.

RJC/dj

cc:

