

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.: 2010-20303
Issue No.: 3003, 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on April 1, 2010. The Claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's FAP and MA benefits?

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 was an ongoing recipient of FAP benefits.
- (2) On January 14, 2010 the Department determined that Claimant's FAP benefit would be reduced to \$240 per month.
- (3) On February 1, 2010 the Department determined that Claimant's FAP benefit would be increased to \$471 per month.

- (4) Claimant receives unemployment compensation of \$1556 per month.
- (5) Claimant receives child support of \$889 per month.
- (6) Claimant has mortgage expense of \$886 per month.
- (7) Claimant requested a hearing on January 25, 2010 contesting the determination of FAP and MA benefits.

CONCLUSIONS OF LAW

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 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 (formerly 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 Program Reference Manual (PRM).

The Medical Assistance program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a MA group falls within the needy classification. Under BEM Items 544 and 545, an eligible Medical Assistance group (Group II MA) has income the same as or less than the “protected income level” plus medical insurance premiums as set forth in the policy contained in the program

reference table. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However a MA 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 CFR 435.831.)

In the present case, Claimant is contesting the deductible amount for her MA benefits. In determining net income a standard deduction of \$20 is deducted for SSI-related Medical Assistance recipients (disabled). Claimant's share of her own income is \$469. Claimant's net income \$469 exceeds the monthly protected income level of \$375 by \$94 per month. Claimant is consequently ineligible to receive Medical assistance. However under the deductible program, if the Claimant incurs medical expenses in excess of \$94 during the month she may then be eligible for Medical Assistance. This ALJ finds that the Department has acted in accordance with Department policy and law in denying ongoing Medical assistance and determining her deductible amount.


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. BEM 550. Under 7 CFR 273.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants.

Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. BEM 554.

In the present case, Claimant credibly testified that she submitted information regarding her mortgage showing that her mortgage obligation is \$886 per month. The Department incorrectly used \$779 for housing expense. Claimant has property tax obligations that were not included in her shelter expense. Claimant testified at hearing that she was behind on her property taxes, but Department policy states that shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. BEM 554. The Department was incorrect to not include Claimant's property tax obligation when determining shelter expense.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be, and is, hereby REVERSED. Claimant's FAP benefits shall be rebudgeted back to February 1, 2010 using the correct mortgage expense of \$886 per month and including Claimant's property tax expenses. Any increase in benefit shall be paid to Claimant in the form of a supplement. This Administrative Law Judge further finds that the Department properly calculated Claimant's MA eligibility and deductible amount and the Department's decision in this regard be, and is, hereby AFFIRMED.

/s/ 

Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

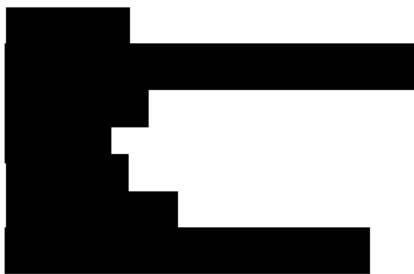
Date Mailed: April 16, 2010

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.

AM/hw

cc:

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