

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: 2010-24764  
Issue No: 2026; 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 15, 2010  
Saginaw 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 April 15, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in November, 2009?
2. Did the department properly determine the claimant should be on a Medical Assistance (MA) deductible program in November, 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 received a Notice of Case Action (DHS-1605) on November 4, 2009 that stated her FAP would be reduced to \$16 per month and that her MA would be switched to a deductible program with a monthly deductible of \$595. (Department Exhibit 1 – 10)

2. The claimant submitted a hearing request on February 4, 2010.

### 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 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

#### **CHILD SUPPORT**

##### **Definitions**

##### **All Programs**

**Child support** is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Medical, dental, child care and educational expenses may also be covered.

Child support is income to the child for whom the support is paid.

Court-ordered child support may be either certified or direct. PEM, Item 500, p. 9.

## **Wages**

### **All Programs**

**Wages** are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

**Exception:** Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

## **UNEMPLOYMENT BENEFITS**

### **All Programs**

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

## **FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING**

### **DEPARTMENT POLICY**

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. PEM, Item 554, p. 1.

- . 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.

Complete either manually-calculated or LOA2 budget to document expenses every time an expense change is reported. PEM, Item 554, p. 1.

### **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.

### **MA GROUP 2 INCOME ELIGIBILITY**

### **Deductible**

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

### **Active Deductible**

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

### **Deductible Period**

Each calendar month is a separate spend-down period.

### **Deductible Amount**

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

### **Meeting a Deductible**

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "EXHIBIT I") that equal or exceed the deductible amount for the calendar month tested. PEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545. p. 9.

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 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge asked the department three separate times for the FAP and MA budgets to determine if the department is budgeting the correct amounts of income and expenses. The department has failed to provide the FAP/MA budgets despite the repeated requests.

This Administrative Law Judge requested the department worker to fax the FAP/MA budgets after the hearing, as they were not provided in the hearing packet. This Administrative Law Judge did receive some additional items requested (paystubs to show the claimant's earned income, UCB income and child support income), but the department did not fax the budgets. Therefore, on April 23, 2010, the department worker was emailed and the FAP/MA budgets were requested for a second time. On April 23, 2010, the department worker faxed the Notice of Case Action (DHS-1605), but no FAP/MA budgets. The department worker was again emailed to request the FAP/MA budgets on April 26, 2010. On April 27, 2010, the department worker faxed the claimant's eligibility summary, but again failed to include the FAP/MA budgets. Thus, due to the failure by the department to provide the necessary documentation, this Administrative Law Judge is unable to determine if the department's actions on either program were in accordance with policy.

As the department has failed to present the evidence to support their actions in placing the claimant on a MA deductible case and in issuing the claimant \$16 in FAP monthly benefits, the department shall rebudget the claimant's case back to the effective date of the change, December 1, 2009 and provide the claimant with a written explanation of the actions the department has taken.

It is noted that if the claimant still contests the actions taken by the department, she is entitled to file another hearing request at that time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has failed to prove that their actions in reducing the claimant's FAP benefits to \$16 and placing the claimant on a MA deductible case are in accordance with department policy. Therefore, the department is REVERSED.

The department shall:

1. Rebudget the claimant's FAP and MA case back to the effective date of the disputed action, December 1, 2009.
2. Issue the claimant a written explanation of the actions taken by the department and how the claimant's benefits were figured.

SO ORDERED.

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

Date Signed: May 19, 2010

Date Mailed: May 25, 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]