

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: 2010-44304
Issue No: 2006; 2026; 3008;
3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 18, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 August 18, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly deny the claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) for failure to return the required verifications?
2. Did the department properly determine the claimant's FAP benefit amount once she reapplied for FAP benefits?
3. Did the department properly place the claimants on a MA deductible case?

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 applied for FAP and MA on March 9, 2010.

2. On March 26, 2010, the department mailed the claimant a Verification Checklist (DHS-3503) requiring the claimant to submit current bank account statements, proof of identity, and proof of unemployment compensation benefit (UCB) amount. These items were due back to the department by April 5, 2010. (Department Exhibit 4 – 5)

3. On April 6, 2010, the department received a [REDACTED] identification and a copy of the claimant's lease. (Department Exhibit 6 – 7)

4. On April 7, 2010, the department mailed the claimant a Notice of Case Action (DHS-1605) that informed the claimants that the MA and FAP case had been denied for failure to provide the required verifications. (Department Exhibit 8 – 10)

5. The claimant reapplied for benefits on April 27, 2010. The claimants were approved for FAP benefits and a MA with a \$673 deductible. (Department Exhibit 11 – 15)

6. On June 2, 2010, the claimant submitted information showing her UCB had ended. (Department Exhibit 23, 24)

7. A group member was added to the household as of June 28, 2010. (Department Exhibit 26)

8. This brought the claimant's FAP benefit to \$531 monthly and a MA deductible for the claimants of \$322. (Department Exhibit 26 – 30)

9. The claimant submitted two hearing requests, one on April 13, 2010 and one on May 20, 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:

**CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. BAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. BAM, Item 130, p. 4.

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. BEM, Item 500, p. 29.

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. BEM, 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. BEM, 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 BEM, Item 554, p. 1.

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

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. BEM, Item 554, p. 6.

Application and Redetermination

Estimate an SDV person's medical expenses for the benefit period. Base the estimate on:

- . verified medical expenses;
- . available information about the SDV member's medical condition and health insurance; and
- . changes that can be reasonably anticipated to occur during the benefit period. BEM, Item 554, pp. 6-7.

During the Benefit Period

Process changes during the benefit period **only** if they are:

- . voluntarily reported and verified during the benefit period (e.g., expenses reported and verified for MA spend-down); or

- . reported by another source **and** you have sufficient information and verification to determine the allowable amount **without** contacting the FAP group. BEM, Item 554, p. 7.

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. BEM, 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. BEM, Item 554, p. 11.

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. BEM 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. BEM, 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. BAM 130 explains verification and timeliness standards. BEM, Item 545, p. 9.

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility, which includes completion of the necessary forms. BAM 105. The claimant was mailed a Verification Checklist (DHS-3503) on March 26, 2010, requiring her to provide proof of assets, identity and proof of her UCB that she was receiving from the [REDACTED]. These items were due back to the department by April 5, 2010. The claimant did return proof of identity, but failed to provide verification of assets and verification of her UCB amount. Thus, the department was unable to determine the claimants' eligibility for the programs requested.

Department policy requires the department to allow the client ten calendar days to provide the verification requested. If the verification is not provided within the time period allowed, the department is to deny the benefits. BAM 130. The claimant did not request any assistance or any extension of time to provide the required verifications. Thus, the department properly denied the application for failure to provide the necessary information.

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. 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. BEM 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 properly computed the claimant's net income, both before and after the UCB ended. The department used the correct figures for RSDI income, UCB income, rent expense, and heating/utility expense. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The department properly computed the claimant's initial benefits of \$83, which included her UCB income and her husband's and son's RSDI income.

Once the claimant's UCB ended, the department rebudgeted the claimant's FAP case. The UCB was removed from the FAP budget. The only remaining sources of income were the

claimant's husband's RSDI and son's RSDI. Further, the claimants added a group member to the FAP household group. This resulted in an increase in the FAP benefits to \$531.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Program Reference Table (PRT). 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. The deductible program 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 this case, the claimant's protected income level is \$516. When the UCB benefits were included, this resulted in a MA deductible of \$673. However, when the UCB was removed from the budget, the deductible decreased to \$225. The department did properly compute the MA deductible both before and after the UCB income.

DECISION AND ORDER

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

1. The department properly denied the claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) for failure to return the required verifications in April, 2010.
2. The department properly determined the claimant's FAP benefit amount once she reapplied for FAP benefits (both before and after the UCB income as removed).
3. The department properly computed the claimants MA deductible (both before and after the UCB income was removed).

Accordingly, the department's determinations are UPHELD. SO ORDERED.

/s/


Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 7, 2010

Date Mailed: October 8, 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.

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