

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg No: 20104500  
Issue No: 3003, 2026  
Case No: ██████████  
Load No: ██████████  
Hearing Date:  
February 18, 2010  
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

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 conducted on February 18, 2010. The Claimant appeared and testified. ██████████

██████████ Eligibility Specialist appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance Program ("FAP") benefits?

Whether the Department properly denied the Claimant's ongoing Medical Assistance Program ("MA-P") due to excess income, and was the Claimant's deductible amount properly calculated?

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 is a FAP recipient and currently has MA-P eligibility subject to a spend down (deductible).
2. The Department notified the Claimant that her benefits would be reduced effective October 1, 2009.
3. At the time of the hearing the Claimant was receiving \$80.00/month in FAP benefits. Previously, the Claimant's FAP benefits had been \$120/month.
4. The Claimant receives \$844/month in RSDI widow's benefits.
5. The Claimant also receives \$97.29 in quarterly death benefits (\$97.29 paid every three months).
6. The Claimant pays \$285/month in rent for her trailer lot and is responsible for her heating and electric bills.
7. The Claimant is 59 years of age and is disabled.
8. The claimant's FAP Group is composed of one member.
9. The Claimant's Medicaid deductible amount as calculated by the Department is \$513.00 per month.
10. On September 14, 2009 the Department received the Claimant request for a hearing regarding her reduced FAP benefit allotment amount and the amount of her Medicaid deductible as determined by the Department.

#### CONCLUSIONS OF LAW

##### **A. FAP**

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 Reference Table (“RFT”).

The federal regulations define household income to include unearned income including RSDI benefits. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 23.9, as amended, \$132.00 is deducted from the gross income of FAP recipients in determining FAP grants. RFT 255. Under 7 CFR 273.9 deductions for excess shelter are also made. BEM 554. Medical expenses over \$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. *Id.* at p. 6.

In the subject case, the Administrative Law Judge finds that the Department treated the Claimant’s quarterly death benefit amount as monthly income, rather than calculating the amount for each individual month. Therefore, the Department included the total amount received, \$97.92, as monthly unearned income, rather than dividing it by three or \$32.00 a month. The incorrect utilization of income caused the claimant’s benefits to be reduced.

BEM 556 directs how FAP benefits are calculated. The shelter expense calculation determines net income. The shelter expense is calculated as follows. The Claimant’s house expense is \$285.00 (trailer lot rental), and by paying heating expense the Claimant receives the maximum \$555 utility standard expense. Claimant’s total shelter expenses are calculated by adding her housing expenses credit with utility expenses. The Claimant’s total shelter expense is \$840.00. The shelter amount is the difference between Claimant’s housing costs (\$840.00) and half of the Claimant’s adjusted gross income (\$744.00) which equals \$372. ( $\$840 - \$372 = \$468$ ). Therefore, Claimant’s shelter amount is \$468.00. Because the Claimant is disabled, there is no maximum shelter amount. BEM 554, page 1.

According to the aforementioned policy on budgeting, the net monthly income of Claimant is \$276.00. This was obtained by subtracting the standard deduction of \$132.00 and the excess shelter amount of \$468.00 from the gross income of \$876.00 (RSDI of \$844.00 + monthly death benefit of \$32.00). A household of one person with a net monthly income of \$276.00 is entitled to a monthly FAP grant of \$117.00 per month. RFT 260.

Based upon the foregoing facts and relevant law, it is found that the Department's determination of the Claimant's FAP allotment is in error and is REVERSED.

#### **B. MEDICAID SPEND DOWN**

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, formally 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 Reference Tables "RFT").

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. BEM 105, p. 1. Medicaid is also known as Medical Assistance Program ("MA-P"). *Id.* The Medicaid program is comprised of several categories, one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program and thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. BEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which

relate to financial eligibility factors. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PIL) must be determined. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. If the fiscal group has net income that is the same or less than the PIL, RFT 240, then it will qualify for MA. If the net income is over the PIL, then the fiscal group may become eligible for assistance under the deductible program.

A deductible or spend down 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 CRF 435.831.

The monthly protected income level for a Medical Assistance group of one living in Macomb County, (Area VI) is \$408.00 per month. RFT 240, RFT 200. In determining net income, a standard deduction of \$20 is deducted for RSDI related Medical Assistance recipients. ( $\$876.00 - \$20.00 = \$856.00$ ). Health insurance premiums for the disabled individual can be added to the PIL to determine the Claimant's deductible.

In the present case, claimant's net income \$856.00 exceeds the monthly protected income level of \$408.00 per month by \$448.00 per month. Claimant is consequently ineligible to receive

Medical Assistance. However, under the deductible program, if Claimant incurs medical expenses in excess of \$448.00 during the month, she may then be eligible for Medical assistance.

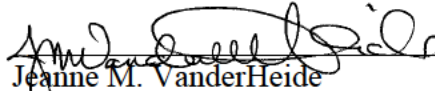
Based upon the forgoing facts and law, the undersigned finds that the Department improperly calculated the deductible spend down amount and therefore its determination the Department's calculations regarding the Claimant's deductible amount is in error and the Department's decision is REVERSED.

#### 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 allotment and MA-P deductible..

Accordingly, it is ORDERED:

1. The Department's FAP and MA-P calculations effective October 1, 2009 are REVERSED.
2. The Department shall recalculate the FAP benefits pursuant to the budgets set forth above retroactive to the date that the Claimant's FAP benefits decreased below \$120 FAP benefits per month.
3. The Department shall review any medical expenses submitted by the claimant for the months of September 2009 through the present, and make to a determination whether the expenses are in excess of the Claimant's monthly deductible amount of \$448.00. If so, Claimant shall qualify for Medicaid per applicable policy.
4. It is further ORDERED that the Department shall supplement the claimant for any lost benefits she was otherwise entitled to receive in accordance with Department Policy.

  
Jeanne M. VanderHeide  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: March 24, 2010

Date Mailed: March 24, 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.

JV/hw

cc:

