

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201048561
Issue No: 3002, 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 14, 2010
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on August 9, 2010. After due notice, a telephone hearing was held on Tuesday, September 14, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility?

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 an ongoing FAP recipient.
2. The Claimant receives monthly Supplemental Security Income (SSI) benefits in the gross monthly amount of [REDACTED].
3. The Claimant receives monthly pension income in the gross monthly amount of [REDACTED].
4. The Claimant had medical expenses of [REDACTED] in May of 2010.
5. The Claimant has a monthly shelter expense of [REDACTED].

6. The Department completed FAP budgets and determined that the Claimant is eligible for a monthly FAP allotment of [REDACTED] for the months May through August of 2010.
7. The Department received the Claimant's request for a hearing on August 9, 2010, protesting the amount of his FAP allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

Allowable medical expenses are limited to the following:

- Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.
- Hospitalization or nursing care.
- Costs of medical supplies, sickroom equipment or other prescribed medical equipment.
- Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional.
- Premiums for health and hospitalization.
- Medicare premiums.

- Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other assistance animal.
- Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist.
- Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs cannot be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle. To find the cents-per-mile amount go to the Michigan Department of Management and Budget at www.michigan.gov/dmb, select Agency Services from the left navigation menu, then select Travel. On the travel page, choose Travel Rates and High Cost Cities using the rate for the current year.
- The cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it must be treated as a medical expense.
- A Medicaid deductible is allowed if the following are true.
 - The medical expenses used to meet the Medicaid deductible are allowable FAP expenses.
 - The medical expenses are not overdue.

The State Office of Administrative Hearings and Rules (SOAHR) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

A client or authorized representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600. For FAP benefits the client may request a hearing disputing the current level of benefits at any time within the benefit period. BAM 600.

The Claimant applied for FAP benefits in August of 2008 as a group of one, and has been an ongoing FAP recipient since then. The Claimant is considered a senior/disabled/veteran FAP recipient. The Claimant receives monthly Supplemental Security Income (SSI) benefits in the gross monthly amount of [REDACTED]. The Claimant receives monthly pension income in the gross monthly amount of [REDACTED].

For May of 2010, the Claimant reported medical expenses of [REDACTED] and shelter expenses of [REDACTED].

The Department completed a FAP budget for May of 2010. The Claimant's total income of [REDACTED] is the sum of his SSI and pension income. This amount is reduced by the standard deduction of \$132 and verified medical expenses to determine the Claimant's adjusted gross income of [REDACTED]. The Claimant is not entitled to an excess shelter deduction because the sum of his monthly shelter expense of [REDACTED] and the \$555 standard heat and utility deduction are less than half of his adjusted gross income. Therefore the Claimant's net income is the same as his adjusted gross income.

A claimant with a group size of one and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFI 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

The Claimant argued that he was advised by his caseworker that medical expenses were not deductible with respect to his FAP budget. The Claimant argued that he had allowable medical expenses since he applied for FAP benefits in 2008 that the Department has not used to determine his FAP allotment.

The Claimant's previous caseworkers were not available during the hearing and it cannot be determined whether he was properly advised of his rights at that time. The Claimant's FAP benefit certification period started August 1, 2009, and ended July 31, 2010. This Administrative Law Judge lacks the jurisdiction to settle the Claimant's grievance concerning unverified medical expenses that are over 90 days old and from the previous benefit period.

The Claimant argued that the Department refused to consider his travel expenses for transportation necessary for medical treatment.

The Department testified that the Claimant did not submit travel documentation necessary to apply his transportation costs to his FAP budget. The Department testified that the Claimant was sent form necessary to document and verify his transportation costs, but that these forms were not returned.

The Claimant testified that the physicians he receives treatment from charge an administrative fee to verify the transportation forms, and that his informal documentation of travel should be sufficient.

The Claimant testified that he submitted other medical documentation that the Department did not consider in its FAP eligibility determination for the months of May through August of 2010.

The Department testified that it completed the Claimant's most recent budget on August 12, 2010, and documents showing medical expenses not applied to the Claimant's prior FAP benefit periods were received on August 19, 2010. The Department testified that these expenses will be applied to future FAP budgets as allowed by policy.

Based on the evidence and testimony available during the hearing, I find that the Department properly determined the Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2010

Date Mailed: October 1, 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.

KS/vc
cc:

