

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: 2010-12302
Issue No: 2026; 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 3, 2010
Genesee 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 February 3, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly budget the claimant's Food Assistance Program (FAP) case?
2. Did the department properly close the claimant's Medical Assistance (MA) deductible program for failing to meet the deductible for the previous three months in December, 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 had failed to meet her MA deductible amount for the months of

September, October and November, 2009. The claimant's MA deductible is \$866.

(Department Exhibit 6)

2. The claimant was mailed a Notice of Case Action (DHS-1605) on November 2, 2009, informing her that the MA deductible case had closed, but that she could reapply if her circumstances changed. (Department Exhibit 1 – 2).

3. The claimant receives \$1292.40 in RSDI income and child support, which averaged out to be \$13.49. This resulted in a total unearned income of \$1305 being budgeted into her FAP budget. (Department Exhibit 5).

4. The claimant owns her home and pays taxes and insurance, which are allowed deductions in the amount of \$48.50. The claimant is also given the \$555 heating/utility standard. (Department Exhibit 3 – 4).

5. The FAP budget shows the claimant is eligible for \$16 in monthly FAP benefits. (Department Exhibit 5).

6. The claimant submitted a hearing request on November 13, 2009.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

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. PEM, Item 500, p. 29.

Child Support Income

Past 3 Months

- . Use the average of child support payments received in the past 3 calendar months unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue.

Note: The 3 month period used can begin up to 3 months before the interview date or the date the information was requested.

If payment for the past 3 months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these 3 months. If there are known changes that will affect the amount of the payments for the

future, then do **not** use the past 3 months to project. **Document the discussion with the client and how you decided on the amount to budget.**

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.

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. PEM, 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. PEM, 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. PEM, Item 554, p. 7.

Property Taxes, Assessments and Insurance

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, e.g. furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed. PEM, Item 554, p. 10.

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. PEM, 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. 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. The claimant’s income has been computed properly at \$1305 (\$1292.40 in RSDI and \$13.49 in child support).

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. PEM 554. In this case, the claimant is being given a medical expense deduction. The claimant pays her Medicare Part B premium (\$96.40), which is deducted on her FAP budget. The claimant also has provided receipts showing \$10.90 in medical expenses for a month. Therefore, the claimant’s total medical expenses equal \$107.30. Only medical expenses greater than \$35 are counted. Therefore, the claimant is given a \$72 medical deduction on her FAP budget.

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. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2. The claimant is receiving shelter expenses for her taxes and

insurance that she pays (she owns the house). The claimant is also receiving the full \$555 heat/utility standard.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. 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 issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$16.

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). PEM 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). PEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 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. PEM 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. PEM 545; 42 CFR 435.831.

Department policy indicates that if a claimant has not met their deductible in any one of the three previous months, the MA deductible case will close. BEM 545. In this case, the claimant did not dispute that she did not meet or exceed her deductible in the three previous months. The claimant was informed that she can reapply if the circumstances change.

DECISION AND ORDER

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

1. The department properly budgeted the claimant's Food Assistance Program (FAP) benefits.
2. The department properly closed the claimant's MA deductible program for failing to meet the deductible for the previous three months in December, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: March 16, 2010

Date Mailed: March 17, 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 

cc:

