

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2010 21461
Issue No.: 2026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 28, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 held on June 28, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared and testified on behalf of the Department.

ISSUE

1. Did the Department properly close the Claimant's Adult Medical Care Case?
2. Did the Department properly compute the Claimant's Medical Assistance (MA) deductible?
3. Did the Department properly compute the claimant's Food Assistance FAP Budget for the months of November 2009, and April and July 2010.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

- 1) On December 7, 2009 a redetermination on the Claimant's case was held and was completed on December 16, 2009. At the time of the Redetermination the Claimant was a recipient of the Adult Medical Care program benefits and Food Assistance benefits in the amount of \$310 per month. Exhibit 1

- 2) The Claimant's Adult Medical Care case closed January 1, 2010 due to excess income. The Claimant's AMP case was properly closed due to excess income. The Claimant was placed in a medical spend down (deductible). The deductible currently is \$901.00 per month, based on an unearned and earned countable income of \$1401 and a group size of one. Exhibit 2
- 3) The Medical budgets prior to the redetermination included no earned income amount and only included the Claimant's Social Security Disability income.
- 4) The Claimant's FAP group has 3 group members and is considered an SDV group.
- 5) The Claimant pays rent \$777 per month and does not pay heating expense.
- 6) The Claimant receives \$885 per month in Social Security Disability and his daughter receives \$327 per month from the Claimant's Social Security Disability. The gross unearned income total is \$1212 which amount was included in the FAP budget and is correct. Exhibits 3 and 4.
- 7) The Claimant's wife began earning approximately \$550 per month from her employment which amount can vary from month to month.
- 8) The Department used pay stubs November 2010 for the redetermination which stubs were in the amount of \$496 and \$372 from the Claimant's wife's job to establish a gross income figure of \$933 per month. These check stubs were averaged and multiplied by 2.15 and the gross income figure was used in the FAP budget and is correct. The Claimant testified that this amount sounded correct for November. Exhibits 3 and 4
- 9) Additional pay stubs were submitted regarding the Claimant's wife's income from April 2010. The two pay stubs used by the Department were in the amounts of \$505.16 and \$630 and were averaged and multiplied by 2.15 to determine the gross monthly earned income of \$1222. This amount is correct and was included in the Claimant's FAP budget for July, 2010 resulting in a FAP allotment of \$0. Exhibit 5
- 10) The Claimant was concerned with the allotment of food assistance benefits because the benefits have fluctuated over the period since the redetermination and now, as of July 1, 2010 is \$0.
- 11) The Department calculated two spend down medical budgets which also accounted for the increase in the Claimant's wife's income from employment utilizing the same pay stubs and the same periods. The gross income as determined by the Department and utilized in the spend down budget

calculation for November 2009 was \$868 which is correct; and in May the gross income was \$1137 which is also correct. These income figures when added to the Claimants unearned income of \$865 from Social Security Disability were utilized in determining the Medical Assistance spend down amount. Exhibits 6 and 7.

- 12) The Medical Assistance spend down budgets are correct as calculated by the Department.
- 13) On February 9, 2010 the Claimant filed a request for a hearing protesting the amount of his FAP allotment decrease and the closure of his Adult Medical Care case due to excess income.

CONCLUSIONS OF LAW

Medical 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 (formerly 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 Program Reference Manual (PRM).

In the instant case, the Claimant questions the Department's calculation of his Medical deductible.

The Claimant was originally eligible for the Adult Medical Program and after the redetermination in December 2009 became ineligible due to excess income as his wife's earned income from her employment had not previously been considered in the budget for AMP eligibility. The undersigned has reviewed the MA budgets for April 2010 and July 2010 and found them to be correct. The April budget utilized the following income. The claimant's unearned income is \$885 per month and was credited with the standard income exclusion of \$20 to yield a net unearned income of \$865; the Claimant's earned income attributable to him is \$868, a \$65.00 standard exclusion was deducted and half of the earned income was counted which totaled \$401.50 for a total net income of \$1266.50 and a protected income limit of \$500.00 equals a \$766.00 deductible. ($\$401.50 = \$865 = \$1266 - \$500 = \$766$)

The July budget utilized the following income. The claimant's unearned income is \$885 per month and was credited with the standard income exclusion of \$20 to yield a net unearned income of \$865; the Claimant's earned income attributable to him from his wife's earnings is \$1137, a \$65.00 standard exclusion was deducted and half of the earned income was counted which totaled \$536 for a total net income of \$1401 and a

protected income limit of \$500.00 equals a \$901.00 deductible. ($\$536 + 865 = \$1401 - \$500 = \901)

The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses.

RFT 240 lists the Group 1 MA PILs based on shelter area and fiscal group size. (BEM 544, p. 1)

And:

The claimant lives in area IV (Wayne County) and the protected income level is \$500.00. (RFT 240, p.1).

This ALJ sympathizes with the claimant but there is nothing that can be done to change the above equation.

Food Assistance Program

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

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, Item 500. A standard deduction from income of \$132 is allowed for each household. 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, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

In this case, the Administrative Law Judge has reviewed the FAP budget numbers contained in the documents submitted by the Department and finds that the Department properly computed the claimant's gross unearned income and his wife's earned income.

The figures utilized by the department were confirmed by the claimant and pay stubs submitted to the Department for the Claimant's wife's income. BEM 500.

Claimant stated that his rent is \$777 per month. Claimant was given a utility deduction maximum of \$555. Based upon the claimant's confirmation of the various income figures and his rent and payment of heating expense, the department's computation the claimant's FAP benefits is correct. The Claimant FAP benefits decreased as a result of the increase of the FAP group's income due to his wife's income which increases significantly over the period. The Administrative Law Judge has reviewed the budgets and found no errors.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law AFFIRMS the Department's decision in the instant case.



Lynn Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/07/2010

Date Mailed: 07/07/2010

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 of the rehearing decision.

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