

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: 2010-2848
Issue No: 2026; 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 17, 2009
Mecosta 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 November 17, 2009. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in September, 2009?
2. Did the department properly determine the claimant should be on a Medical Assistance (MA) deductible program in September, 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 been receiving SSI (in the amount of 674 monthly) and MA benefits associated with the SSI.

2. On October 1, 2009, the claimant began receiving RSDI in the amount of \$1055 per month. (Department Exhibit 1 - 2).

3. A MA budget was run for the claimant. It resulted in excess income for regular MA benefits. The claimant was eligible for a MA deductible of \$694 per month. (Department Exhibit 4 – 7).

4. A new FAP budget was also ran to reflect the change in unearned income. This resulted in a decrease in her FAP benefits to \$16 monthly. (Department Exhibit 8 – 11).

5. The claimant submitted several different hearing requests on October 1, 2009 and three requests on September 21, 2009. The negative action was removed pending the hearing.

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.

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.

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. PEM, Item 554, p. 9.

Non-Heat Electric Standard

A FAP group which has no heat expense but has a responsibility to pay for non-heat electricity separate from rent/mortgage or condo/maintenance fees, must use the Non-Heat Electric Standard. The standard covers **only** non-heat electric.

Telephone Standard

A FAP group which has no heat expense but has a responsibility to pay at least the basic fee required to maintain a telephone, must use the Telephone Standard. This includes cell phones. The standard covers **only** the telephone expense.

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. 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. PEM 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. The department used the correct figures for RSDI income, rent expense, non-heat electric and telephone standard. 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.

In this case, the claimant's protected income level is \$341. The claimant receives RSDI in the amount of \$1055 monthly. With the \$20 disregard, this brings the claimant's countable net income to \$1035. Once the protected income level is included, this brings the claimant's monthly deductible to \$694.

It is noted that when the claimant begins to pay her Medicare premium, the \$94.60 per month will be included in her MA budget and reduce her deductible accordingly.

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 beginning in September, 2009.
2. The department properly determined the claimant should be on a Medical Assistance (MA) deductible program in September, 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: February 23, 2010

Date Mailed: March 2, 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 [REDACTED]

cc: [REDACTED]