

**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.: 2010-33444
Issue No.: 2026/3000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 25, 2010
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 from Detroit, Michigan on Monday, October 25, 2010. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Claimant's hearing request for the termination of food assistance ("FAP") benefits is timely?
2. Whether the Department properly calculated the Claimant's Medical Assistance ("MA") deductible based on excess income?

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 was a FAP recipient.
2. On August 31, 2009, the Claimant's FAP benefits terminated based on the failure to complete the redetermination process.
3. On March 5, 2010, the Department completed the Claimant's MA redetermination which resulted in the Claimant having a \$749.00 deductible.

4. The Claimant works part-time, and her spouse and two children receive Retirement, Survivors, Disability Insurance ("RSDI") income.
5. On April 28, 2010, the Department received the Claimant's written request for hearing protesting the FAP termination and MA deductible.

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant is protesting the termination of her FAP benefits as well as the MA deductible. Each issue will be addressed separately.

FAP closure

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"), formerly 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 Bridges Reference Manual ("BRM").

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903 A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1) A claimant shall be provided 90 days from the negative action notice. MAC R 400.902 - .904; BAM 600

In this case, the Claimant's FAP benefits closed effective August 31, 2009. The Claimant did not request a hearing until April 27, 2010 (received by the Department on April 28th) which is well beyond the 90 days provided for in the Administrative Code. As such, the Claimant's hearing request regarding the FAP closure is not timely and is dismissed.

MA deductible

The Medical Assistance program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the 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 BAM, BEM, and BRM.

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 Medicaid is also known as Medical Assistance. *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* MA income eligibility exists for the calendar month tested when there is no excess income or allowable medical expenses that equal or exceed the excess income. BEM 545 The fiscal group's monthly excess income is called a deductible amount. *Id.* 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. *Id.* Each calendar month is a separate deductible period. *Id.* The group must report expenses by the last day of the third month following the month it seeks MA coverage for. *Id.* If a group has not met its deductible (incurred medical expenses) in at least one of the three calendar months before that month and none of the members are QMB, SLM, or ALM eligible, Bridges will automatically notify the group of closure. *Id.*

In this case, the Department properly included the Claimant's earned income from part-time employment and RSDI income for the Claimant's spouse and two children. As a result, the Claimant's deductible was \$749.00. Previously, the deductible was lower because the Claimant did not have earnings. Ultimately, the Department established it acted in accordance with department policy when it calculated the Claimant's MA deductible by including the groups' earned and unearned income. Accordingly, the Department's MA determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law DISMISSES the Claimant's FAP hearing request and AFFIRMS the Department's MA determination.

Accordingly, it is ORDERED:

1. The Claimant's FAP hearing request is dismissed as untimely.
2. The Department's MA determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

201033444/CMM

Date Signed: 10/26/2010

Date Mailed: 10/26/2010

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.

CMM/jlg

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