

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

IN THE MATTER OF:



Reg. No.: 201038030
Issue No.: 2015; 3015; 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 29, 2010
Oakland County DHS (63)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 July 29, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether DHS properly found Claimant to have excess income for Child Development and Care (CDC) eligibility.
2. Whether DHS properly found Claimant to have excess income for Food Assistance Program (FAP) eligibility.
3. Whether DHS properly found Claimant and her children to have excess income for ongoing Medicaid and only eligible for Medicaid subject to a monthly deductible.

FINDINGS OF FACT

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

1. Claimant applied for FAP, MA and CDC on 3/28/10.
2. Claimant is part of a three person non-senior, non-disabled and non-disabled veteran household; the household includes Claimant and her two minor children.

3. Claimant is employed and submitted two representative gross employment income verifications to DHS; Claimant received \$1114.45 on 3/5/10 and 1068.75 on 3/19/10.
4. Claimant received a total child support amount of \$297.28 in 12/2009, \$322.28 in 1/2010 and \$297 in 2/2010. Exhibit 8.
5. Claimant received unemployment compensation (UC) income of \$180 on 3/8/10 and \$162.87 on 3/22/10. Exhibit 9.
6. On 3/22/10, DHS determined that Claimant had excess income for CDC benefits. Exhibit 4.
7. On 4/30/10, DHS determined that Claimant had excess income for FAP benefits. Exhibit 3.
8. On 5/1/10 DHS determined that Claimant was eligible for Medicaid subject to a \$1126 monthly deductible and Claimant's two children were eligible for Medicaid subject to a \$1522 monthly deductible. Exhibit 2.
9. On 5/6/10, Claimant requested a hearing disputing the DHS determinations concerning MA, FAP and CDC eligibility.

CONCLUSIONS OF LAW

Food Assistance Program

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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) and the Reference Tables Manual (RFT).

A FAP group's financial eligibility and monthly benefit amount are determined using actual income (income already received) and prospected income (not received but expected). Only countable income is included in the determination. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505 at 1.

In calculating eligibility for FAP benefits, DHS projects a client's non-child support income by using the last 30 days of payments if it appears to accurately reflect what is

expected to be received in the benefit month. *Id* at 4. Biweekly payments are averaged and multiplied by 2.15 to convert the 14 day pay periods to a full month of pay. *Id* at 5.

In the present case, Claimant's verified employment income averaged \$1091.60/2 weeks. Multiplying the average amount by 2.15 results in gross employment income of \$2346/month.

Claimant's UC income averaged \$171/2 weeks. Multiplying the average amount by 2.15 results in gross employment income of \$368/month.

For child support income, the last three months of income are budgeted and averaged unless changes are expected. *Id* at 3. Claimant's average monthly child support income is \$305.

Claimant's total gross monthly income for purposes of FAP eligibility is the total of her employment income, UC income and child support income. Claimant's total gross income is found to be \$3019/month.

FAP benefit groups without a senior, disabled or disabled veteran (SDV) member must have gross income below the gross income limits. BEM 550 at 1. Claimant is part of a three-person non-SDV group. The gross income limit for a non-SDV three person group is \$1984. RFT 250. Claimant's gross monthly income of \$3019 exceeds the gross income limits. It is found that DHS properly denied Claimant's 3/8/10 application for FAP benefits due to excess income.

DHS calculated Claimant's monthly gross income to be \$2953. It is probable that DHS used different 30 day pay periods and thus, different income amounts to calculate Claimant's eligibility. Any difference between the calculation of the undersigned and DHS is negligible as Claimant remains significantly over-income in either calculation.

Child and Development Care

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS must complete a CDC budget at application to determine whether a CDC group is income eligible for CDC benefits. BEM 525 at 1. The income of all program group members must be considered. *Id*. Gross amounts of income are to be used in the CDC budget. *Id*.

Claimant's monthly gross income for purposes of CDC eligibility is calculated identically to how it is calculated for FAP eligibility. Thus, Claimant's gross monthly gross income is found to be \$3019/month.

For CDC based on an employment need, the CDC group income may not exceed the gross income limits. BEM 703 at 15. The gross income limit for a three person CDC group may not exceed \$1990/month. RFT 270. Claimant's countable gross income exceeded the CDC income limits for a three person group. It is found that DHS properly denied Claimant's request for CDC benefits due to excess income.

DHS calculated Claimant's monthly gross income for CDC eligibility to be \$2839. Again, this amount differs from the amount calculated by the undersigned. As stated above, the difference is negligible as Claimant is significantly over-income for benefit eligibility in either calculation.

Medical Assistance

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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

A recipient with excess income for ongoing Medicaid may still be eligible for Medicaid under the deductible program. Clients with a Medicaid deductible may receive Medicaid 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.

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2.

Claimant is a non-disabled and non-senior caretaker of minor children. Claimant's most beneficial MA category is as a Group 2 Caretaker (G2C). Claimant's minor children are non-disabled. Their most beneficial MA category is through the Healthy Kids (HK) program.

Claimant's income eligibility for purposes of G2C begins by calculating her net employment income. Unlike FAP and CDC income calculations, income for purposes of MA eligibility are not averaged and then multiplied by 2.15. BEM 530 at 2. Thus, Claimant's two biweekly employment income checks are added together to obtain her monthly employment income for purposes of MA; this amount is \$2183. The income is offset by a \$90 deduction resulting in a net income of \$2093 BEM 536 at 1.

Claimant's biweekly unemployment income is also not multiplied by 2.15 to convert it into a standard 30 day period for purposes of MA income eligibility. Instead, the last 30 days of UC checks are added together to determine gross monthly UC income. In Claimant's case, the amount is found to be \$619.

Claimant's child support income is averaged over the last three months prior to application to determine Claimant's average child support income for MA eligibility. As with CDC and FAP, the average amount is \$305. DHS policy gives Claimant a \$50/child disregard for any child support income received. *Id* at 2. The \$305/month in child support income includes payments for each of Claimant's two children. Thus, Claimant's child support income for purposes of MA eligibility is \$205/month.

Claimant's total net income is the amount of income from each source after DHS policy disregards are applied. Claimant's net income for MA eligibility is \$2093+\$619+\$205 for a total of \$2917.

The total net income is divided by a prorate divisor to calculate Claimant's prorated share of income. A prorate divisor is the sum of 2.9 and the number of Claimant's dependents. *Id* at 4. Claimant has two minor children, each is considered to be a dependent. Thus, Claimant's prorate divisor is 4.9. Dividing the total net income (\$2917) by the prorate divisor (4.9) results in Claimant's prorated share of income (\$595).

DHS calculated Claimant's prorated income to be \$538. The DHS amount is more favorable to Claimant and in the interests of fairness to Claimant will be used in the below listed calculations. Again, the difference is probably attributable to DHS using different pay periods and thus, different income amounts resulting in different totals.

The adult fiscal group net income is calculated by adding the adult's prorated share of income (\$538) and the adult's prorated share multiplied by 2.9. *Id* at 5. Thus, Claimant's total net income for purposes of G2C eligibility is \$1560.

Income eligibility exists for G2C when total net income does not exceed the income limit in RFT 240. The G2C net income limit for a one person (Claimant is the only group member for purposes of G2C per BEM 211 at 5) MA group is \$408/month. RFT 240.

Claimant's total net income (\$1560) exceeds the G2C net income limits. It is found that DHS properly found Claimant to have excess income for ongoing Medicaid.

As a client with excess income for ongoing Medicaid eligibility, Claimant could still receive Medicaid subject to a monthly deductible. The deductible is calculated by taking Claimant's gross monthly income (\$1560) and subtracting the protected income level (\$408). BEM 541 at 1. Claimant's deductible is calculated to be \$1152. It is found that DHS properly found Claimant eligible for Medicaid subject to a monthly \$1152 deductible.

For purposes of HK eligibility, the Claimant's \$538 prorated share of income remains the same. The net income of the MA fiscal group is calculated by multiplying the prorated share of income (\$538) by 2.9 and adding it to the Claimant's prorated share. In Claimant's case, the total net income for purposes of MA eligibility is \$2098.

Income eligibility exists for HK when the net income of the client's fiscal group (\$2098) does not exceed the appropriate poverty level in RFT 246. BEM 536 at 5. The poverty level in RFT 246 is \$1846. Claimant's total net income exceeds the limits of HK eligibility. It is found that DHS properly denied Claimant's children for ongoing Medicaid.

Claimant's children could still receive Medicaid subject to a monthly deductible. The deductible is calculated by taking the gross monthly income (\$2098) and subtracting the appropriate protected income level found in RFT 240 (\$541). Claimant's children's deductible is calculated to be \$1557, the same as calculated by DHS. It is found that DHS properly Calculated Claimant's children to be eligible for Medicaid subject to a monthly deductible of \$1557.

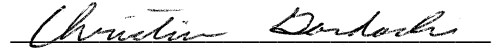
It should be noted that this decision only applies to Claimant's 3/28/10 application for MA, CDC and FAP benefits. Claimant may reapply for benefits at any time. Also, the determination for HK may be different if Claimant is responsible for payment of minimal day care expenses for her children.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant and her children to be eligible for MA subject to a monthly deductible and

properly denied Claimant's request for CDC and FAP benefits.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 4, 2010

Date Mailed: August 4, 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.

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