

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.: 201040239
Issue No.: 2026 /3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 19, 2010
Macomb County DHS (50)

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 19, 2010. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly calculated Claimant's eligibility for Medical Assistance (MA) benefits.
2. Whether DHS properly applied Claimant's medical expenses to her Food Assistance Program (FAP) benefit calculation.

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 was an ongoing FAP and MA recipient.
2. Claimant is a disabled individual.
3. Claimant is part of a one-person FAP and MA group.
4. Claimant received gross monthly income of \$521.01 from a pension.

5. Claimant also received \$689/month in gross income from Retirement, Survivors, Disability Insurance (RSDI). Exhibit 1.
6. Claimant is responsible for a monthly \$575 rent obligation; Claimant is responsible for a heat obligation.
7. In approximately 2/2010, Claimant reported various out-of-pocket medical expenses including an \$11,000+ bill from a hospital stay.
8. In 7/2010, DHS redetermined that Claimant is eligible for Medicaid subject to a deductible of \$782/month.
9. In 7/2010, DHS redetermined Claimant's FAP benefits in 6/2010 and calculated Claimant to be eligible for \$53/month in FAP benefits.
10. DHS failed to budget any of Claimant's verified one-time-only medical expenses in determining Claimant's recertified FAP benefit amount
11. Claimant's FAP certification period is from 7/1/10-6/30/12.
12. On 6/18/10, Claimant submitted a hearing request disputing the DHS determined eligibility for FAP and MA benefits.

CONCLUSIONS OF LAW

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).

The MA program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a Medical Assistance recipient falls within the needy classification. Recipient with excess income for Medicaid are not eligible for ongoing Medicaid. However, such recipients 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 requires clients to report and verify allowable medical expenses that equal or exceed the deductible amount for the calendar month.

Claimant is a disabled adult. BEM 541 outlines the calculations necessary to determine MA eligibility for disabled adults.

Claimant's net unearned income is calculated by taking the gross amount of unearned income and subtracting \$20. BEM 541 at 3. Claimant receives \$689/month in gross RSDI income and \$521.01/month in gross income from a pension. Claimant's total gross income is \$1210 (dropping cents). Claimant's net unearned income is found to be \$1190/month.

The program for which Claimant would most likely qualify for Medicaid is through Aged/Disability Care (AD-care). Income eligibility exists for AD-care exists when net income does not exceed the income limit in RFT 242. The AD-care net income limit for a one person MA group is \$903/month. RFT 242. Claimant's monthly net income (\$1190) exceeds the AD-care 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 (\$1190), subtracting any insurance premiums (Claimant pays none) and subtracting the protected income level (\$408) as found in RFT 240. BEM 541 at 1. Claimant's deductible is calculated to be \$782; DHS calculated the same deductible. It is found that DHS properly calculated Claimant's eligibility for MA benefits.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS specialists are to consider only the medical expenses of a senior, disabled or disabled veteran (SDV) person in the eligible group when calculating FAP benefits. BEM 554 at 7. BEM 554 further advises specialists to estimate an SDV person's medical expenses for the benefit period. Specialists are to base the estimate on all of the following: verified allowable medical expenses, available information about the SDV member's medical condition and health insurance, changes that can reasonably be anticipated to occur during the benefit period. *Id.*

FAP groups that have 24-month benefit periods must be given the following options for one-time-only medical expenses billed or due within the first 12 months of the benefit period: budget it for one month, average it over the remainder of the first 12 months of the benefit period or average it over the remainder of the 24-month benefit period. *Id.* Claimant was never given this option as DHS did not attempt to include Claimant's medical expenses in calculation of Claimant's FAP benefits.

In the present case, Claimant submitted an \$11,000+ emergency room bill in 2/2010. DHS contended that they are not required to budget one-time-only medical expenses and did not use Claimant's bill in calculating her FAP benefits. DHS policy unequivocally allows for the budgeting of one time medical expenses. It is found that DHS failed to consider Claimant's one-time-only medical expenses in calculating Claimant's FAP benefits.

DHS further contended that Claimant failed to timely report her medical expense when she submitted a 2/2010 medical bill in 4/2010. DHS policy does not appear to impose any time limit on the reporting of medical expenses during a FAP benefits period. Further, an example provided in BEM 554 illustrates a similar timeframe where the hypothetical client incurred a medical bill in one month and reported and verified the medical expense to DHS two months later; the client in the example was given credit for the medical expense. It is found that Claimant timely reported her medical expenses and DHS failed to budget the expenses in calculating Claimant's FAP benefits.

DHS indicated that Claimant's \$11,000+ medical bill will be covered by Medicaid except for \$769 which Claimant is responsible to pay as her deductible; note that \$769 was Claimant's deductible before it was updated for 7/2010. DHS is correct in that only the non reimbursable portion of a medical expense is to be allowed. *Id* at 9.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly calculated Claimant's eligibility for MA benefits.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits beginning 7/2010. It is ordered that DHS recalculate Claimant's FAP benefits beginning 7/2010 and to include any previously reported and verified medical expenses. DHS shall ask Claimant how she wishes to have the expenses budgeted over her FAP benefit period and DHS shall supplement Claimant for any loss in FAP benefits stemming from the failure to originally budget the medical expenses.

/s/



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

Date Signed: August 9, 2010

Date Mailed: August 9, 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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