

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.: 2010-41925
Issue No.: 2026/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 12, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Lynn M. 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 August 12, 2010. The Claimant's duly appointed Guardian, [REDACTED] appeared and testified on behalf of the Claimant. [REDACTED] ES and [REDACTED], Supervisor, appeared and testified on behalf of the Department.

ISSUE

1. Did the Department properly compute the claimant's Food Assistance FAP Budget for the months of April, 2010 and June, 2010?
2. Did the Department properly compute the Claimant's Medical Assistance (MA) 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. The Claimant, through his court appointed guardian, applied for food assistance (FAP) and Medical Assistance (MA) in February 2010. At the time of his FAP application, the Claimant was in the hospital.
2. The Department initially denied FAP benefits and then reinstated FAP benefits and issued a supplement for February and March 2010 when it determined that the Claimant was returned home from the hospital and the hospital stay was less than 30 days.

3. The Claimant currently receives \$1045 in RSDI per month.
4. The Claimant reported on June 24, 2010 that his rent is \$900 and he pays no heat expense.
5. The Claimant is disabled and his Food assistance group is an SDV group of one member.
6. The Department completed a Medical Assistance Spend down budget and determined that the monthly spend down amount is \$650. The Claimant lives in Wayne County Michigan and the protected income level is \$375 per month. This calculation to determine the Claimant's medical spend down amount is correct.
7. The Medical Assistance Spend down budgets is correct as calculated by the Department.
8. The Claimant received \$120 in FAP assistance in April 2010 for an 18 day period.
9. The Claimant received \$200 in FAP assistance in May 2010.
10. The Claimant received \$105 in FAP assistance in June 2010.
11. The Claimant reported that his rent was \$500 on April 29, 2010.
12. The Department did not submit any FAP budgets with the hearing summary and the budgets were not received until after the hearing via facsimile. The testimony by the Department during the hearing regarding the amounts of the unearned income received by the Claimant and the months it was received is inconsistent with the budgets the Department prepared and submitted for consideration as part of the record.
13. The testimony offered by the Department regarding the reasons for partial pro rated FAP benefits for the month of April was also not clear as it suggested that the Claimant was required to show when he was released from the hospital but no request for verification of this fact was made or presented by the department.
14. The Department also testified that it included certain medical expenses when computing the Claimant's FAP budget but none of the budgets submitted by the Department indicate the medical expenses were utilized

in the FAP budgets submitted. The Claimant may have been entitled to a medical expense credit as he is disabled. (SDV group)

15. No medical expenses which were submitted by the Claimant were included in any of the FAP budgets for April or June.
16. On June 23 2010 the Department received the Claimant's hearing request protesting the FAP allotment and the medical spend down amount.

CONCLUSIONS OF LAW

MEDICAL SPENDOWN

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 undersigned has reviewed the MA spend down budget for August 1, 2010 and finds it to be correct. The August budget utilized the following income. The claimant's unearned income is \$1045 per month from RSDI and was credited with the standard income exclusion of \$20 to yield a net unearned income of \$1025; The Claimant received no earned income attributable to him for this period and none was included in the budget. The Claimant's total countable income \$1045 and a protected income limit of \$375.00 equals a \$650.00 deductible. ($\$650 = \$1045 - \$20 = \$1025 - \$375 = \650)

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

PRT 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 and the protected income level is \$375.00. (RFT 240, p.1).

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This ALJ sympathizes with the claimant but there is nothing that can be done to change the above equation. The Department's determination of the medical spend down amount is correct.

FOOD ASSISTANCE

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

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 several FAP budgets and information contained in the documents submitted by the Department. and finds that the Department correctly calculated the Claimant's FAP benefit allotment for the month of May and June and while it correctly calculated the Claimant's benefits for April 2010 it should have paid the Claimant the entire FAP amount of \$200 not the prorated amount of \$120.

In April, 2010 the Claimant received FAP benefits of \$120. Exhibits 1 and 2. The FAP budget for April covers the period April 13, 2010 through April 30, 2010. The Claimant received the prorated benefit amount of \$120 but it was unclear from the Department's testimony why the Claimant did not receive benefits for the entire month of April. The failure of the Department to adequately explain why the Claimant only received partial benefits for April requires that the Department's action with regard to its determination of the April FAP benefits be reversed as it is not supported by the record presented by the Department. Because the Department did not support its determination the Claimant is entitled to the full \$200 in benefits for the month of April. The Department suggested

that the issue had to do with verifying when the Claimant was released from the hospital, but no request for verification was presented or other evidence indicating why only partial FAP was received for April. On the basis of the record as a whole it is determined that the Claimant is entitled to the entire months benefits of \$200 and the Department did not sustain its burden of proof in that regard. RFT 260 page 1.

In May 2010 the Claimant received \$200 in FAP benefits and it is found that the Department properly computed the claimant's gross unearned income. The Claimant received the maximum amount a group of 1 could receive.

In June 2010 the claimant received FAP benefits in the amount of \$105. The figures utilized by the department were confirmed by the claimant and the Claimant's unearned income of \$1045 was included in the budget to determine gross income. The Claimant received the standard deduction of \$132 to reduce the gross income and was credited with rent expense of \$500 and granted the standard utility expense deduction of \$555. Based on these inputs which are deemed to be verified and correct the Department properly calculated the Claimant's FAP for the month of June 2010.

In August 2010 the Department will be required to utilize the increased rent amount of \$900 when computing the Claimant's FAP benefits as August is the first time the reported change in rent reporting will be effective per BEM 22 page 8. BEM 500.

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 with regard to its determination of the Claimant's Medical spend down amount.

The Administrative Law Judge REVERSES IN PART the Department's FAP budget determinations:

1. For the months of May 2010 and June 2010 the Department's determinations as to the FAP allotments are correct and are hereby AFFIRMED.
2. For the month of April 2010 the Department's determinations as to the Claimant's FAP allotment is REVERSED and the Department is ordered to issue a Supplement of \$80 to the Claimant for FAP benefits he was otherwise entitled to receive.

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3. For the FAP benefits for the month of August, 2010, the Department is required to use the Claimant's current rent of \$900 when computing the Claimant's Shelter Allowance for the August FAP benefits.



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

Date Signed: 8/20/2010

Date Mailed: 8/20/2010

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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