

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

IN THE MATTER OF:



Reg No. 201047260
201045352
20111731
Issue No. 1018; 3015; 2021; 4013
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 28, 2010
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person telephone hearing was held on Thursday, October 28, 2010. The claimant personally appeared and testified with his wife, [REDACTED] as a witness.

ISSUE

Did the department properly determine that the claimant had excess assets for Medical Assistance (MA), excess income for State Disability Assistance (SDA) and Food Assistance Program (FAP), and no eligible member for Family Independence Agency (FIP)?

FINDINGS OF FACT

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

1. The claimant's household composition consists of his wife, the claimant, and his 19 year-old son.
2. The claimant receives [REDACTED] in RSDI benefits and pays the [REDACTED] Part B Medicaid premium for a gross income of [REDACTED]. (Department Exhibit 6-8)

3. The claimant's son receives RSDI income in the amount of [REDACTED] and SSI income in the amount of [REDACTED]. (Department Exhibit 9-11)
4. The claimant had automobiles in the group household composition's names in the amount of [REDACTED]. (Department Exhibit 14-30)
5. On April 19, 2010, the claimant applied for FAP and MA benefits.
6. On April 19, 2010, the department caseworker sent the claimant a notice that the claimant's MA application was denied due to excess assets consisting of non-excluded vehicles in the amount of [REDACTED] which exceed the SSI MA-related asset limit of \$3,000. (Department Exhibit 15-30, 35) For FAP, the claimant's income from Social Security benefits in the amount of [REDACTED] per month and SSI benefits of [REDACTED] per month after the applicable deduction exceeds the FAP income limit of [REDACTED] per month for a family of 3. (Department Exhibit 31-34)
7. On April 19, 2010, the department caseworker sent the claimant a notice that his application for MA due to excess assets and FAP due to excess income. (Department Exhibit 1-2)
8. On May 28, 2010, the department received a hearing request from the claimant, protesting the department's negative action.
9. On July 8, 2010, the claimant applied for SDA benefits for his son, FAP, and MA.
10. On July 8, 2010, the department caseworker determined that the claimant wasn't eligible for SDA for the son's income from Social Security RSDI in the amount of [REDACTED] and SSI income in the amount of [REDACTED] exceeds the income limit for the SDA program of [REDACTED]. The claimant had excess assets due to the value of the claimant's countable vehicles in the amount of [REDACTED] which exceeds the \$3,000 Medicaid asset limit. The claimant also had excess income for FAP benefits for a family group of 3.
11. On July 8, 2010, the department caseworker sent the claimant a notice that his application SDA and FAP was denied due to excess income and MA due to excess assets.
12. On July 27, 2010 the department received a hearing request from the claimant, contesting the department's negative action.
13. On September 7, 2010, the claimant applied for SDA, FIP, MA, and FAP.

14. On September 7, 2010, the department caseworker determined that the claimant wasn't eligible for SDA for the son's income from Social Security RSDI in the amount of [REDACTED] and SSI income in the amount of [REDACTED] exceeds the income limit for the SDA program of [REDACTED]. The claimant had excess assets due to the value of the claimant's countable vehicles in the amount of [REDACTED] which exceeds the \$3,000 Medicaid asset limit. The claimant also had excess income for FAP benefits for a family group of 3, for FIP due to no eligible member in the home
15. On September 7, 2010, the department caseworker sent the claimant a notice that that his application SDA and FAP was denied due to excess income, FIP due to no eligible member in the home, and MA due to excess assets.
16. On September 30, 2010, the department received a hearing request on from the claimant, contesting the department's negative action.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's program eligibility manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT PHILOSOPHY

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. BEM, Item 518, p. 1.

Countable income is defined in BEM 500. Available income, the amount of income to budget and when to complete a budget are defined in BEM 505. Use this item to determine the program group's budgetable income and financial eligibility. BEM, Item 518, p. 1.

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see BEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). BEM, Item 505, p. 1.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. BEM, Item 505, p. 2.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. BEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. BEM 500 defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. BEM, Item 550, p. 1.

ASSETS

DEPARTMENT POLICY

FIP, SDA, LIF, Group 2 Persons Under Age 21, Group 2 Caretaker Relative, SSI-Related MA, and AMP

Assets must be considered in determining eligibility for FIP, SDA, LIF, Group 2 Persons Under Age 21 (G2U), Group 2 Caretaker Relative (G2C), SSI-related MA categories and AMP.

- . “CASH” (which includes savings and checking accounts)
- . “INVESTMENTS”
- . “RETIREMENT PLANS”
- . “TRUSTS” BEM, Item 400.

Assets Defined

Assets means cash, any other personal property and real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. **Personal property** is any item subject to ownership that is **not** real property (examples: currency, savings accounts and vehicles). BEM, Item 400.

MA ASSET ELIGIBILITY

LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories. BEM, Item 400, p. 3.

Note: Do not deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in BEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of L/H patient and BEM 106 for the definition of waiver patient.

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date. BEM, Item 400, p. 4.

SSI-Related MA Asset Limit

SSI-Related MA Only

For Freedom to Work (BEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRA's and 401(k)'s) may be of unlimited value.

For Medicare Savings Program (BEM 165) and QDWI (BEM 169) the asset limit is:

- . \$4,000 for an asset group of one
- . \$6,000 for an asset group of two

For all other SSI-related MA categories, the asset limit is:

- . \$2,000 for an asset group of one
- . \$3,000 for an asset group of two. BEM, Item 400, p. 4.

AVAILABLE

FIP, SDA, LIF, G2U, G2C, SSI-Related MA and AMP

An asset must be available to be countable. **Available** means that someone in the asset group has the legal right to use or dispose of the asset. BEM, Item 400, p. 6.

Assume an asset is available unless evidence shows it is **not** available. BEM, Item 400, p. 6.

DEPARTMENT POLICY

FIP and SDA Only

Financial need must exist to receive benefits. Financial need exists when the eligible group passes both the "**Deficit Test**" and the "**Child Support Income Test**". To perform the deficit test, subtract the **program group's** budgetable income from the **eligible group's** Payment Standard (BEM, Item 515) for the benefit month. To meet the Child Support Income Test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. BEM, Item 518, p. 1.

The benefit month is the month an assistance payment covers. The income month is a calendar month in which countable income is received or anticipated. The income month is the same as the benefit month. BEM, Item 518, p. 1.

FINANCIAL NEED

FIP and SDA Only

Financial need exists if:

- . there is at least a \$1 deficit after income is budgeted, **and**
- . the group passes the Child Support Income Test.

Exception: A child support income test is not required for SDA groups. BEM, Item 518, p. 2.

If the group fails either test, the group is ineligible for assistance. Deny the application or close the case for the benefit month unless the group meets the conditions for Temporary Ineligibility of Extended FIP.

At application, if the group is ineligible due to excess income but a change is expected for the next benefit month, process the second month's benefit determination. If eligible, do not deny the application. BEM, Item 518, p. 2.

Deficit Test

FIP and SDA Only

Compare the program group's budgetable income for the income month to the eligible group's payment standard for the benefit month. The group is ineligible for the benefit month if no deficit exists. BEM, Item 518, p. 2.

BENEFIT AMOUNT

FIP and SDA Only

A deficit of at least \$10 is required to receive a cash benefit. If the deficit is less than \$10 but at least \$1, financial need exists but no cash benefits are issued. The group is eligible

for MA/SMP and must comply with all applicable FIP/SDA eligibility requirements. BEM, Item 518, p. 3.

DEFINITIONS

Benefit month: The month an assistance benefit payment covers. For CDC, benefit month is the month in which the pay period ends. BEM, Item 505, p. 1.

Available income: Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly. See BEM 500. BEM, Item 505, p. 1.

Past Months

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See Standard Monthly Amount in this item.

Exception: Prospective income may be used for past month determinations when:

- . income verification was requested and received, and
- . payments were received by the client after verifications were submitted, and
- . there are no known changes in the income being prospected. BEM, Item 505, p. 2.

Current and Future Months

Prospect income using a “best estimate” of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. BEM, Item 505, p. 2.

To prospect income, you will need to know:

- . the type of income and the frequency it is received (e.g., weekly),
- . the day(s) of the week paid,

- . the date(s) paid, and
- . the gross income amount received or expected to be received on each pay date. BEM, Item 505, p. 2.

BUDGETING INCOME

Use the following guidelines to budget income.

Change in Amount

When the income amount changes, adjust the amount(s) being budgeted for future pay periods.

For earned income:

- . If the rate of pay changes, but hours are expected to remain the same, use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods.
- . If there is a change in expected hours, but no change in the rate of pay, use the expected hours times the rate of pay to determine the amount to budget per pay period.

If payments in the new amount have been received and they are accurate reflections of the future income, use them in the budget for future months.

For changes in self-employment income, determine the monthly gross income to budget based on discussion with the client of what he/ she expects to receive on average per month. BEM, Item 505, p. 6.

Standard Monthly Amount

Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. BEM, Item 505, p. 7.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. BEM, Item 505, p. 8.

Income Decrease

FIP and SDA

Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. Do not process a change for a month earlier than the month the change occurred. Supplements are not issued to correct underissuances caused by the group's failure to report timely.

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a

change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. If verification is required or deemed necessary, you must allow the household 10 days from the date the change is reported or the date you request verification to provide verification. The change must still affect the correct issuance month (i.e., the month after the month in which the 10th day after the change is reported).

If necessary verification is not returned by the due date, put the case into negative action. If verification is returned late, but before case closure, you must act within 10 days from the date the verification is returned. The increase must affect no later than the first allotment issued 10 days after the date the verification was returned. BEM Item 505, pp. 8-10.

Income Increase

FIP, SDA, FAP

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, FIP/SDA - 15 workdays). The effective month is the first full month that begins after the CIMS Negative Action Effective Date. BEM, Item 505, p. 9.

TEMPORARY INELIGIBILITY

FIP, SDA, CDC, FAP

Case closure is not required if all the following conditions exists:

- . Ineligibility will exist for only one month for FIP, SDA or FAP, or two bi-weekly pay periods for CDC, because the conditions resulting in excess income are not expected to recur in the following month, and
- . the group is currently active for FIP, SDA, CDC or FAP, and
- . for FIP and SDA, the group failed the Deficit Test.

Temporary ineligibility is limited to one month for FIP, SDA and FAP, or two pay periods for CDC. Close the case if ineligibility will last beyond one month or two CDC pay periods. See BAM 220, 506 and BEM 550. BEM, Item 505, p. 11.

The instant case, the claimant applied repeatedly for FIP, FAP, MA, and SDA. The claimant had excess income for FAP and SDA. In addition, the claimant had excess assets for MA. The claimant did not have an eligible child to be eligible for FIP benefits.

Therefore, this Administrative Law Judge finds that the department has established by the necessary, competent, material, and substantial evidence that it was acting in compliance with department policy when it determined that the claimant had excess income for FAP and SDA benefits, excess assets for MA benefits, and no eligible member in the home for FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimant had excess income for FAP and SDA benefits, excess assets for MA benefits, and no eligible member in the home for FIP benefits.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: January 3, 2011

Date Mailed: January 3, 2011

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.

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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.

CGF / vc

cc:

