

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. 201045700
Issue No. 2026; 3002; 3052
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: August 26, 2010
Office: Wayne County DHS (19)

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 August 26, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits beginning 5/1/10.
2. Whether DHS properly determined Claimant's Medical Assistance (MA) benefits as Medicaid subject to a monthly \$802 deductible effective 5/1/10.
3. Whether DHS properly sought recoupment of \$1020 in cash benefits and \$736 in FAP benefits from Claimant.

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 State Disability Assistance (SDA), MA and FAP recipient.
2. Claimant began receiving Retirement, Survivors, Disability Insurance income of \$1197/month beginning 11/2009.

3. Claimant received \$200/month in FAP benefits from 1/2010-4/2010.
4. Claimant received \$255/month in SDA benefits from 1/2010-4/2010.
5. Claimant received ongoing Medicaid from 1/2010-4/2010.
6. On an unspecified date in 4/2010, after including Claimant's RSDI income, DHS determined that Claimant was eligible for the following benefits effective 5/2010: \$16/month in FAP benefits, Medicaid subject to a monthly deductible of \$802 and termination of SDA benefits.
7. DHS also determined that Claimant was over-issued \$1020 in SDA benefits and \$736 in FAP benefits due to the DHS error in failing to timely process the inclusion of Claimant's RSDI income.
8. The over-issuance amounts covered a period from 1/2010-4/2010.
9. On 5/6/10 Claimant requested a hearing disputing the reductions in her FAP and MA benefits and the attempted recoupment of cash and FAP benefits.

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). Policy updates are found in the Bridges Policy Bulletin (BPB).

Claimant contended that DHS improperly reduced her FAP benefits from \$200 in 4/2010 to \$16/month beginning 5/2010. Claimant does not dispute any of the specifics of the DHS budget, only that the \$16 is an insufficient amount of FAP benefits.

FAP benefits are calculated based on specific factors outlined within DHS policy. Neither DHS nor the undersigned has the authority to override those factors. Whether \$16/month in FAP benefits is or is not sufficient for Claimant is not relevant. Claimant is entitled to a correct FAP benefit determination. BEM 556 provides the steps in the FAP benefit calculation process.

The FAP benefit calculation begins with determining Claimant's monthly income. Claimant receives \$1197/month in RSDI income. A standard deduction based on Claimant's FAP group size (one person) is subtracted from the monthly income to calculate Claimant's adjusted gross income. The standard deduction for a group size of one person is \$132. RFT 255. Claimant's adjusted gross income is found to be \$1065.

Claimant could also receive deductions for medical, dependent care or child support. BEM 554 at 1. In 5/2010, Claimant did not allege to have any of these expenses.

Claimant's shelter costs are the sum of her rent or mortgage obligations and utility standards. Claimant stated she pays \$300/month in rent. All FAP recipients currently receive the maximum standard for utilities (\$555). BPB 2010-008. Claimant's shelter costs are found to be \$855.

Claimant's excess shelter costs are her shelter costs (\$855) minus half of Claimant's adjusted gross income (\$1065). Claimant's excess shelter is determined to be \$323 (rounding up).

Claimant's net income for purposes of FAP benefits is Claimant's adjusted gross income (\$1065) minus her excess shelter expense (\$323). Claimant's net income is found to be \$742. For a FAP group size of one person with a net income of \$742, the correct FAP benefit issuance is \$16/month, the same as calculated by DHS. It is found that DHS properly reduced Claimant's FAP benefits to \$16/month.

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.

Clients 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. As a disabled person, Claimant's most beneficial MA program is through Aged-Disabled Care (AD-Care).

Claimant's net income is determined by adding her total monthly income. Claimant receives a total of \$1197/month in RSDI income. \$20 is deducted as a disregard from Claimant's total income to determine net income. BEM 541 at 3. Claimant's net income is found to be \$1177/month.

Income eligibility for AD-Care exists when net income does not exceed the income limit for the program. BEM 163. The net income limit for AD-Care for a one person MA group is \$903/month. RFT 242. Claimant's net income (\$1177) exceeds the AD-Care income limits. It is found that DHS properly determined Claimant to be ineligible for AD-Care based on excess income.

Claimant may still receive MA benefits subject to a monthly deductible through the Group 2 MA program. The deductible is calculated by subtracting Claimant's Protected Income Level (PIL) from Claimant's MA net income. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. Claimant's PIL is \$375. RFT 240. Subtracting Claimant's PIL (\$375) from her net income (\$1177) results in a deductible amount of \$802. It is found that DHS properly calculated Claimant's deductible to be \$802/month.

FAP and SDA recoupment

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. An over-issuance caused by DHS error is not pursued if the estimated OI amount is less than \$125 per program. BAM 705 at 1. If improper budgeting of income caused the OI, use actual income for the past OI month for that income source. BAM 705 at 6.

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 negative action effective date." BEM 505.

In the present case, Claimant timely reported an income change to DHS, the beginning of her RSDI benefits. Claimant began receiving the benefits in 11/2009. DHS did not

201045700/CG

process the change until 4/2010. As a result, Claimant received excess FAP and SDA benefits from 1/2010-4/2010. DHS properly did not attempt to recoup FAP and SDA benefits for 11/2009 and 12/2009 to allow for the time it would have taken to process the change and to give Claimant timely notice of the change.

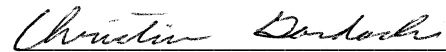
Claimant received \$200/month in FAP benefits from 1/2010 through 4/2010. Had DHS properly included Claimant's RSDI income, Claimant would have received \$16/month in FAP benefits during that time. It is found that DHS properly calculated Claimant's FAP benefit over-issuance to be \$736.

Claimant received \$255/month in SDA benefits from 1/2010 through 4/2010. Had DHS properly included Claimant's RSDI income, Claimant would have been ineligible for SDA benefits due to excess-income. It is found that DHS properly calculated Claimant's SDA benefit over-issuance to be \$1020.

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 reduced Claimant's FAP benefits to \$16, reduced Claimant's MA benefits to Medicaid subject to a monthly deductible of \$802 and properly sought recoupment of \$1020 in over-issued cash benefits and \$736 in over-issued FAP benefits.

/s/



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

Date Signed: August 27, 2010

Date Mailed: August 27, 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.

201045700/CG

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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