

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. 201046705
Issue No. 1018; 2021; 3015; 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 hearing was held on Thursday, October 28, 2010. The claimant personally appeared and testified with her husband, [REDACTED] as a witness.

ISSUE

Did the department properly determine that the claimant was not eligible for Family Independence Agency (FIP), State Disability Assistance (SDA), Medical Assistance (MA), and Food Assistance Program (FAP) as a result of excess income, excess assets, and no eligible child in the home?

FINDINGS OF FACT

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

1. On July 29, 2010, the claimant applied for FIP, SDA, MA, and FAP benefits.
2. The claimant's household composition consists of her husband, the claimant, and her 19 year-old son.

3. The claimant's husband receives [REDACTED] in RSDI benefits and pays the [REDACTED] Part B Medicaid premium for a gross income of [REDACTED]. (Department Exhibit 6-8)
4. The claimant's son receives RSDI income in the amount of [REDACTED] and SSI income in the amount of [REDACTED]. (Department Exhibit 9-11)
5. The claimant had automobiles in the group household composition's names in the amount of [REDACTED]. (Department Exhibit 14-30)
6. On July 29, 2010, the department caseworker determined the claimant's eligibility for MA benefits based on the value of vehicles of [REDACTED] which was over the asset limit of \$3,000. As a result, the claimant's household was not eligible for MA benefits as a result of excess assets. (Department Exhibit 31-32)
7. On July 29, 2010, the department caseworker determined the claimant's eligibility for FAP benefits (Department Exhibit 33-35):
 - The claimant had countable unearned income of [REDACTED].
 - The claimant qualified for a standard deduction of [REDACTED] and a medical deduction of [REDACTED], resulting in an adjusted gross income of [REDACTED].
 - The claimant had a group size of 3, which entitled them to a maximum benefit amount of [REDACTED].
 - 30% of the claimant's net income was [REDACTED], which was above the maximum benefit amount of [REDACTED].
 - As a result, the claimant had a benefit amount of [REDACTED] and a net benefit amount of [REDACTED], resulting in excess income for FAP benefits.
8. On July 29, 2010, the department caseworker calculated the claimant's eligibility for SDA (Department Exhibit 12-13):
 - The claimant had RSDI income in the amount of [REDACTED] which was a correction to the budget of [REDACTED]. The payment standard for SDA for a couple is [REDACTED]. As a result, the claimant had excess income for SDA benefits and failed the income test results.
9. On July 29, 2010, the department caseworker determined the claimant's eligibility for FIP benefits and determined that the claimant was not eligible for FIP benefits because the group does not contain a minor child where the claimant's child in the home is 19 years of age.

10. On July 29, 2010, the department caseworker sent the claimant a notice that she was not eligible for SDA because of excess income, MA because of excess assets, FAP because of excess income, and FIP because the claimant did not have a dependent child or was a caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee or does not have qualifying relationship to other household members. (Department Exhibit 1-4)
11. On August 3, 2010, the department received a hearing request from the claimant, contesting the department's negative action.
12. During the hearing, the claimant's husband stated they no longer had possession of the cars and that through the years they had sold them and they could not be held responsible if the person who bought the car did not clear the title.
13. During the hearing, the department explained to the claimant and her husband that unless the title was cleared that the value of the vehicles in question would be counted as an asset.
14. During the hearing, this Administrative Law Judge took the time to explain to the claimant and her husband the importance of transferring title when a vehicle was sold and that it is against the law to sell a vehicle without transferring title.

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 on July 29, 2010 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 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 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: December 29, 2010

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.

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:

