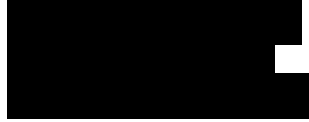


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201047825
Issue No: 2014; 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 11, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 11 2010.

ISSUE

Was the claimant's Medicaid budget deductible computed correctly?

Did the claimant have an over-issuance of FAP benefits that may be recouped?

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 is a MA recipient and FAP recipient in Oakland County.
- (2) Claimant receives unearned income in the amount of \$1315 per month.
- (3) The MA budget showed eligibility for the claimant; however this budget included a deductible of \$315.

- (4) Claimant was found eligible for FAP benefits in the amount of \$367 per month.
- (5) The Department found that claimant received an over-issuance of FAP benefits in the amount of \$200.
- (6) This over-issuance was brought about by claimant allegedly not verifying home health care expenses.
- (7) Claimant had home health care expenses.
- (8) Claimant had reported those expenses, and the Department was aware that claimant had those expenses, as it had terminated her benefits for home health care.
- (9) Claimant requested a hearing on August 16, 2010, stating that she believed the deductible that she had been given was incorrect. Claimant also requested a review of her FAP over-issuance.

CONCLUSIONS OF LAW

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

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).

With regard to the MA eligibility determination, the State of Michigan has set guidelines for income, which determine if an MA group is eligible. Claimant is not eligible for Group 1 Medicaid. Net income (countable income minus allowable income deductions) must be at or below a certain income limit for Group 1 eligibility to exist. BEM 105. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in RFT 240. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess

income to be eligible for MA, 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. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. PEM 545; 42 CFR 435.831.

The MA budget included claimant's RSDI benefits. The Administrative Law Judge has reviewed this budget and found no errors. Claimant herself was unable to point out specifically what parts of the budget she felt were in error. An unearned income total of \$1315 results in a modified net income of \$690, after considering the calculated prorated shares of all the household income. Therefore, claimant only becomes eligible for Group 2 MA when the excess income, budgeted here to be \$315, is spent. This amount was calculated after considering claimant's allowed protected needs level of \$375. The undersigned cannot point to any errors, and must conclude that the Department's calculations were correct.

While this deductible amount may have come about due to an incorrect classification of claimant's MA program, the classification is beyond the jurisdiction of the Administrative Law Judge. Claimant's home health care benefits were terminated, which led to the deductible; this termination is under the jurisdiction of the Department of Community Health, and the claimant has never requested a hearing on the termination of these benefits. The claimant has also not requested a hearing on the classification of her MA code—also an area which is under the purview of DCH. Regardless, the undersigned cannot hear issues that are not before him, and claimant's

hearing request and negative action were with regard solely to her deductible amount. The undersigned thus limits his jurisdiction to that area.

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 \$170 is allowed for certain households. 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 \$458 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 FAP over-issuance budgets and finds that the Department properly computed the claimant's gross income. However, the Department failed to take into account claimant's appropriate medical expenses.

Contrary to the Department's arguments, the Department was aware, or should have known, that claimant's home health care benefits had been terminated. As such, claimant was going to have sole responsibility for those payments. Claimant testified that she notified the Department about these expenses, and that they were verified. The undersigned finds this testimony credible. Therefore, claimant's medical expenses


should have been included in claimant's FAP over-issuance budgets. As claimant's FAP over-issuance was caused specifically because claimant's medical expenses were taken into account, and then later removed; and as claimant's medical expenses should never have been removed from the budgets, the undersigned finds that the claimant does not have an over-issuance of FAP benefits, and thus, there is no over-issuance of FAP benefits to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to impose a MA deductible of \$315 was correct. The Department decision to recoup \$200 in FAP benefits was also correct.

Accordingly, the Department's decision is **AFFIRMED IN PART**, and **REVERSED IN PART**.

The Department is **ORDERED** to remove any over-issuance and recoupment of FAP benefits in the current matter, and reimburse claimant for any FAP benefits which were wrongly recouped.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 04/11/11

Date Mailed: 04/19/11

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.

RJC/dj

cc:

