

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-51707
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 6, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 telephone hearing was held on October 6, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny a medical deduction for the claimant's emotional support dogs when budgeting the Food Assistance Program (FAP) benefits?

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 is a disabled FAP recipient.
2. The claimant has two dogs that are considered Emotional Support Animals and are recommended by her therapists. (Claimant Exhibit A – G)

3. The department received guidance from the Food Assistance Policy Team that indicates the Food and Nutrition Service has clarified that department policy does not allow the emotional support dogs to be allowed as a medical deduction. Thus, the deduction was disallowed. (Department Exhibit 1)

4. The claimant submitted a hearing request on August 10, 2010.

CONCLUSIONS OF LAW

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 Program Reference Manual (PRM).

MEDICAL EXPENSES

Estimated Medical Expense

Estimate an SDV person's medical expenses for the benefit period. A FAP group may voluntarily, but cannot be required, to report changes during the benefit period.

Consider **only** the medical expenses of SDV persons in the eligible group or SDV persons disqualified for certain reasons. See **Expenses for Disqualified or Ineligible Persons** in this item.

The expense does **not** have to be paid to be allowed. Allow medical expenses when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Allow **only** the non-reimbursable portion of a medical expense.

Note: Any incurred current medical expense that is applied toward a Medicaid spend-down is also an allowable FAP medical expense. PEM, Item 554, p. 6.

Application and Redetermination

Estimate an SDV person's medical expenses for the benefit period.

Base the estimate on:

- . verified medical expenses;
- . available information about the SDV member's medical condition and health insurance; and
- . changes that can be reasonably anticipated to occur during the benefit period. PEM, Item 554, pp. 6-7.

Allowable Medical Expenses

Allowable medical expenses are limited to the following:

- . Medical and dental care
- . Hospitalization or nursing care. Include these expenses for a person who was a group member, immediately prior to entering a hospital or nursing home
- . Prescription drugs and the postage form mail-ordered prescriptions
- . Costs of medical supplies, sickroom equipment (including rental) or other prescribed medical equipment (excluding the cost for special diets)
- . Over-the-counter medication (including insulin) and other health-related supplies (bandages, sterile gauze, incontinence pads, etc.) when recommended by a licensed health professional
- . Premiums for health and hospitalization policies (excluding the cost of income maintenance type health policies and accident policies, also known as assurances). If the policy covers more than one person, allow a prorated amount for the SDV person(s)
- . Medicare premiums
- . Dentures, hearing aids and prosthetics including the cost of securing and maintaining a seeing eye or hearing dog or other

assistance animal. (Animal food and veterinary expenses are included.)

- . Eyeglasses when prescribed by an ophthalmologist (physician-eye specialist) or optometrist
- . Actual costs of transportation and lodging necessary to secure medical treatment or services. If actual costs **cannot** be determined for transportation, allow the cents-per-mile amount at the standard mileage rate for a privately owned vehicle in lieu of an available state vehicle.
- . The cost of employing an attendant, homemaker, home health aid, housekeeper, home help provider, or child care provider due to age, infirmity or illness. This cost must include an amount equal to the maximum FAP benefits for one person if the FAP group provides the majority of the attendant's meals. If this attendant care cost could qualify as both a medical expense and a dependent care expense, it **must** be treated as a medical expense. PEM, Item 554, pp . 7-8.

In this case, the claimant is disputing the department's determination to deny her a medical deduction for her emotional support dogs. The local department did request clarification from the Food Assistance Policy Team in Lansing on the issue. The Food Assistance Policy Team has received clarification from the Food and Nutrition Service (the federal department that oversees the FAP program) that emotional support dogs are not considered service animals, such as a seeing eye dog, and are not an allowable medical deduction.

This Administrative Law Judge only has jurisdiction to determine if the department is correctly applying department policy. In this case, the department's policy unit has already requested and obtained clarification from FNS that emotional service animals are not recognized as medical deductions for a disabled FAP recipient. Thus, this Administrative Law Judge can not find that the department did not properly apply its policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied a medical deduction for the claimant's emotional support dogs when budgeting the Food Assistance Program (FAP) benefits.

Accordingly, the department's determination is UPHeld. SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 7, 2010

Date Mailed: October 8, 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 date of the rehearing decision.

SLM [REDACTED]

cc: [REDACTED]