

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

IN THE MATTER:

[REDACTED]

Reg No. 201052924
Issue No. 2014
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 13, 2010
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 13, 2010.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA) 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. May 10, 2010, claimant applied for MA for herself and her granddaughter.
2. On or about September 2010, the department prepared a LIF MA budget. Claimant's total income was [REDACTED] consisting of self employment income after 25% was deducted for employment expenses. Earned income disregard of [REDACTED] 0 was included, leaving countable LIF income of [REDACTED] 0. Claimant had excess income to qualify. Department Exhibit A, pgs 19 and 36.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

Use LIF policy to determine eligibility under this category for:

- Families who are not FIP recipients.
- Families denied FIP at application.
- Families whose FIP grant is ending.
- Months prior to eligibility as a FIP recipient (example: retro MA month).

Countable assets cannot exceed the asset limit in BEM 400. Countable assets are determined using BEM 400 and BEM 401.

Use policy in the following to determine LIF financial eligibility:

BEM 500, 501, 502 ,503 , 504 Income Series.

BEM 530, MA Income Budgeting.

“EXHIBIT V - LIF INCOME TEST GROUP.”

“EXHIBIT VI - LIF INCOME LIMIT.”

“EXHIBIT VII - LIF INCOME.”

There are two earned income disregards. The decision about which disregard to use is made separately for each employed person.

Standard Work Expense and \$30 Plus 1/3 Disregard. Use this disregard when a person meets both of the following conditions:

- The person’s countable earnings for the month being tested are more than \$600, and
- The person received FIP or LIF in at least one of the four calendar months preceding the month being tested.

Received, for this purpose, includes months a person has been found eligible for LIF even if the eligibility has not yet been determined in Bridges (**Example:** a retro MA month for an applicant). Deduct a \$90 work expense from the person’s countable earnings. Then, deduct an additional \$30 plus 1/3 from the person’s remaining earned income.

- **\$200 Plus 20% Disregard.** Use this disregard when the person does **not** meet both of the conditions for the Standard Work Expense and \$30 Plus 1/3 Disregard above.

Deduct \$200 from the person's countable earnings. Then, deduct an additional 20% from the person's remaining earnings.

Income eligibility exists for LIF if there is a deficit of at least \$1.

Social Security Act, Sections 1902(a)(63), 1931

JOINT POLICY DEVELOPMENT

Medicaid, Adult Medical Program (AMP), Transitional Medical Assistance (TMA/TMA-Plus), and Maternity Outpatient Medical Services (MOMS) policy has been developed jointly by the Department of Community Health (DCH) and the Department of Human Services (DHS).

Countable income from self-employment equals the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts.

Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses.

SELF-EMPLOYMENT EXPENSES

Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

- Allowable expenses for rental/room and board are different than those listed above.

Expenses Not Allowed

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

Self-Employment Income Verification:

- Business receipts.
- Accounting or other business records.
- Income tax return.
- Other acceptable method that provides needed information.
- DHS-431, Self-Employment Statement.

Self-Employment Expenses

- Receipts.

BRIDGES ELIGIBILITY MANUAL (BEM) 502

Social Security Act Sections 1902(a)(10), 1931
42 CFR 435, Subparts H and I
MCL 400.106

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In this case, the department determined claimant's eligibility for LIF-MA using a standard self employment expense. Finding of Fact 1-2. At hearing, claimant asserted that she was not informed that receipts for actual self-employment expenses were needed. Apparently, claimant believes her actual allowable self-employment expenses are greater than 25% of her self-employment income. The department did not submit a copy of its Verification Checklist (DHS-3503) into evidence. Department Exhibit A. Thus, it is not possible to determine what proofs claimant was asked to provide. Accordingly, the department has not met its burden of proof and its action can not be upheld.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law, decides the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's LIF eligibility in compliance with department policy and this Decision and Order.

_____/s/_____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 29, 2010

Date Mailed: November 30, 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.

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.

JAB/db

cc:

