

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: 2010-5355
Issue No: 2026; 3015; 4013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 12, 2010
Ingham 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 claimant's request for a hearing. After due notice, an in-person hearing was held on Tuesday, January 12, 2010. The claimant personally appeared and testified with her family friend, [REDACTED] as a witness.

ISSUE

Did the department properly determine the claimant's eligibility for benefits for the Food Assistance Program (FAP), State Disability Assistance (SDA), and Medical Assistance (MA)?

FINDINGS OF FACT

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

- (1) On September 23, 2009, the claimant applied for FIP, SDA, and MA benefits.

(Department Exhibit 12-27)

(2) On October 8, 2009, the claimant completed the telephone interview.

(3) On October 14, 2009, the department caseworker completed budgets for the claimant based on the claimant's unearned income of [REDACTED] as the result of Social Security benefits:

- FAP Program – The claimant was eligible a standard deduction of \$132, housing costs of \$237.83, heat/utility standard (including telephone) \$555, that resulted in a monthly income of \$521 after deductions, which resulted in the claimant being approved for the remaining month of September for \$24 and from October 1, 2009 to August 31, 2010 of FAP benefits of \$43.
- SDA Program – The claimant was not eligible because the countable monthly income exceeded the income limits for the SDA program.
- MA Program – The claimant was eligible for the MA program with a deductible of \$580 that she must meet in order to remain Group 2 MA eligible.

(4) On October 14, 2008, the department caseworker sent the claimant a case action notice that she was eligible for FAP benefits of \$24 for September 2009 and \$43 for October 1, 2009 to August 2010, excess income for the SDA program, and a \$580 MA deductible.

(5) On October 23, 2009, the department received a hearing request from the claimant, contesting the department's actions.

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 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 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).

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. PEM, Item 518, p. 1.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, 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. PEM, 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 PEM 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). PEM, Item 505, p. 1.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

FAP INCOME BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM, Item 550, p. 1.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. PEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. PEM 500 defines countable income. PEM 505 defines available income and income change processing. This item describes income budgeting policy. PEM, Item 550, p. 1.

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. PEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in “**EXHIBIT I**”) that equal or exceed the deductible amount for the calendar month tested. PEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. PAM 130 explains verification and timeliness standards. PEM, Item 545. p. 9.

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 (PEM, 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. PEM, 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. PEM, Item 518, p. 1.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, 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. PEM, 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. PEM, 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. PEM, 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. PEM, 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. PEM, 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 PEM 500. PEM, 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. PEM, 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. PEM, 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. PEM, Item 505, p. 2.

BUDGETING INCOME

Use the following guidelines to budget income.

Child Support Income

Past 3 Months

- . Use the average of child support payments received in the past 3 calendar months unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue.

Note: The 3 month period used can begin up to 3 months before the interview date or the date the information was requested.

If payment for the past 3 months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these 3 months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past 3 months to project. **Document the discussion with the client and how you decided on the amount to budget.**

One Month Projection

- . If the past 3 months' child support is not a good indicator of future payments, calculate an expected **monthly** amount for the benefit month based on available information and discussion with the client. PEM, Item 505, pp. 3-4.

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. PEM, 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. PEM, 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. PEM, 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. PEM 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. PEM, 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 PAM 220, 506 and PEM 550. PEM, Item 505, p. 11.

The department's Program Eligibility Manual provides the following policy statements and instructions for caseworkers regarding the SDA program.

DISABILITY – SDA

DEPARTMENT POLICY

SDA

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Note: There is no disability requirement for AMP. PEM 261, p. 1.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.

- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Other Benefits or Services

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- . Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- . Supplemental Security Income (SSI), due to disability or blindness.
- . Medicaid (including spend-down) as blind or disabled if the disability/blindness is based on:
 - .. a DE/MRT/SRT determination, or
 - .. a hearing decision, or
 - .. having SSI based on blindness or disability recently terminated (within the past 12 months) for financial reasons.

Medicaid received by former SSI recipients based on policies in PEM 150 under "**SSI TERMINATIONS,**" INCLUDING "**MA While Appealing Disability Termination,**" does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria. See "**Medical Certification of Disability**" below.

- . Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has an active MRS case. Do not refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.

- . Special education services from the local intermediate school district. To qualify, the person may be:
 - .. attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - .. not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as “special education” as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- . Refugee or asylee who lost eligibility for Social Security Income (SSI) due to exceeding the maximum time limit PEM, Item 261, pp. 1-2.

In the instant case, the claimant receives [REDACTED] in Social Security benefits that is counted as unearned income. The claimant has \$237.83 in housing costs and \$555 as the heat/utility standard (including telephone). For Food Assistance Program benefits, the claimant was given the standard deduction of \$132, which resulted in a net income of \$521. As a result, the claimant received \$24 in FAP benefits from September 14, 2009 through September 30, 2009 and \$43 a month for October 1, 2009 through August 31, 2010.

The claimant did not qualify for SDA because her Social Security income at [REDACTED] is more than the monthly cash benefit of \$264. Therefore, the claimant has excess income for SDA benefits.

For MA, the claimant because of her unearned income from Social Security of [REDACTED] would have an ongoing deductible of \$580. The department caseworker sent the claimant a copy of the change report and deductible report for her to submit bills in order to be eligible for MA.

Therefore, the department has established that it was acting in compliance with department policy by determining that the claimant was not eligible to receive SDA benefits because of excess income, had a spend-down for MA of \$580, and qualified for \$43 in FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department appropriately denied the claimant's SDA application because of excess income, has a MA deductible account in the amount of \$580, and that the claimant was only eligible to receive FAP benefits in the amount of \$43.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 18, 2010

Date Mailed: February 18, 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.

2010-5355/CGF

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/vmc

cc:

