

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010-7899
Issue No.: 3003/2013
Case No.: ██████████
Load No.: ██████████
Hearing Date:
March 22, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, a telephone hearing was conducted from Detroit, Michigan on March 22, 2010. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), ██████████, Specialist, and ██████████, Manager, appeared and testified.

ISSUE

1. Whether DHS correctly budget Claimant's eligibility for Medical Assistance (MA) and Food Assistance Program (FAP) benefits?
2. Whether Claimant is responsible for a \$97 FAP over-issuance due to DHS error?

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 an ongoing recipient of FAP and MA benefits.

2. DHS received a verification of Claimant's RSDI benefits showing a gross monthly award of \$966.40/month.
3. On 11/4/09, DHS updated Claimant's benefits to reflect the new income verification causing a reduction in FAP benefits to \$6/month.
4. On 11/4/09, DHS updated Claimant's MA benefits to reflect the new income verification causing a reduction in MA from Medicaid coverage to a \$601 monthly deductible.
5. On 11/4/09 DHS generated a letter of FAP recoupment notifying that Claimant was responsible for \$97 in FAP over-issuance due to DHS error.
6. Claimant submitted a hearing request on 11/12/09 regarding the reduction of her FAP and MA benefits and the notice of recoupment of FAP.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

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).

DHS acknowledges they relied on incorrect information prior to recalculating Claimant's FAP and MA benefits on 11/4/09. DHS submitted a 2009 Social Security Administration (SSA) award letter showing that Claimant's actual gross monthly RSDI income is \$966.40; DHS was previously budgeting a smaller amount for Claimant's RSDI income.

Claimant contends that she only receives \$870 in income from SSA. Claimant's contention is accurate; however, Claimant's gross RSDI benefit is still \$966.40. Per BEM 503, DHS is to budget the gross amount of RSDI, not the net amount. It is found that DHS accurately budgeted Claimant's income in calculating Claimant's entitlement to FAP and MA benefits.

The \$96.40 that Claimant does not receive from SSA is still relevant in the budget process. BEM 554 allows the \$96.40 as a medical expense to be factored in calculating Claimant's FAP. The updated FAP budget failed to consider this expense. It is found that DHS neglected to budget Claimant's Medicare expense.

Claimant testified that her income is limited to \$966.40 RSDI income. Based on that income amount, Claimant appears to be eligible for SLMB, a program that would allow Claimant to not have to pay the \$96.40/month for her Medicare premium. RFT 242, Table 2 allows eligibility for SLMB benefits for qualifying persons with income between \$904-\$1083 per month. DHS testified that a determination was not made regarding Claimant's SLMB eligibility. Per BEM 105, DHS is to determine eligibility and benefit amount for all requested programs. It is found that DHS neglected to calculate Claimant's eligibility for Medicare Savings Program as found in BEM 165.

On 11/4/09, Claimant received a Notice of Overissuance for \$97 in FAP benefits. The overissuance was due to DHS error. At the time the notice was discovered BAM 700 stated overissuances are not pursued if the amount is less than \$500 per program. Claimant's overissuance was less than \$500 and therefore should not be pursued by DHS.

DECISION AND ORDER

The actions taken by DHS are REVERSED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS incorrectly reduced Claimant's MA and FAP benefits and improperly sought recoupment of a FAP overissuance. It is ordered that DHS shall begin the process in recalculating claimant's FAP and MA retroactive to 12/2009 using the following guidelines:

1. \$96.40 shall be budgeted as a medical expense for all relevant programs
2. DHS shall consider Claimant's eligibility for a Medicare Savings Program
3. DHS shall not pursue \$97 in FAP over-issuance from 11/1/09-11/31/09.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/29/2010

Date Mailed: 3/29/2010

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.

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