

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.: 2010-9709
Issue No.: 1018, 2014,
2026, 3015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 1, 2010
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on April 1, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS properly denied Family Independence Program (FIP) benefits to Claimant?
2. Whether DHS properly excluded Claimant's niece in determining Claimant's Food Assistance Program (FAP) group composition?
3. Whether DHS properly determined Claimant was required to pay a Medical Assistance (MA or Medicaid) program deductible for her personal medical expenses based on her income?

FINDINGS OF FACT

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

1. On or before November 30, 2008, Claimant received FAP, FIP and FIP- related MA benefits for herself, her son and her niece.
2. On June 9, 2009, Claimant received an extension of Unemployment Insurance (UI) benefits which DHS failed to include as income in calculating Claimant's benefits.
3. On or about October 28, 2009, DHS conducted a Redetermination in which Claimant's UI income was counted, and DHS excluded Claimant's niece from the FAP recipient group because she did not live with Claimant during the reporting period.
4. The Redetermination reduced Claimant's FAP benefits, caused a denial of FIP benefits, and established a \$592 Medicaid deductible for Claimant only (the deductible was not required with regard to her son) effective December 1, 2009.
5. On November 5, 2009, Claimant filed a written notice requesting a hearing and informing DHS that her niece had returned to live with her.
6. Claimant's niece lived with her from November 5, 2009 through January 31, 2010.

CONCLUSIONS OF LAW

FIP was established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-3131.

DHS' FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov .

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' FAP policies are also found in the three manuals mentioned above.

The MA program is established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers the MA program pursuant to MCL 400.10, *et seq.* and MCL 400.105. DHS' MA policies are also found in the three manuals cited above.

In this case, Claimant disputes:

1. the 2.15 multiplier number used to calculate her monthly income;
2. the \$592 deductible that is required before her own medical expenses are covered by MA;
3. the exclusion of her niece from the recipient group in December, 2009, and January, 2010;
4. the denial of Medicaid coverage for her son's orthodontures, which entails a payment of \$79 per month.

First, I conclude that DHS correctly altered Claimant's benefits based on her income. BEM 500 states that income is a benefit or payment received by an individual which is measured in money. Earned income is income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is all income that is not earned. Gross income is the amount of income before any deductions are

taken such as taxes or garnishments. Gross income may be *more* than the actual amount an individual receives. BEM 500, p. 3; *see also*, BEM 503.

BEM Item 505 states that a group's financial eligibility and monthly benefit amount are determined by converting the person's income to a standard monthly amount. The use of a conversion formula creates a monthly income figure that will not fluctuate (change) from month to month, making benefits more regular and predictable. A month is considered to be 4.3 weeks for purposes of this calculation. So, if a person has a weekly income, that amount of money is multiplied by 4.3 weeks to arrive at a monthly income amount. Similarly, if a person has a biweekly income, that number is multiplied by 2.15 weeks and the result is multiplied by 2 in order to arrive at a standardized monthly income amount. BEM 505, pp. 1, 6-7. I conclude that Claimant's countable income was calculated using the proper formula found in BEM 505.

Second, with regard to the MA deductible imposed upon Claimant as a result of her increased income, BEM Item 105 states that the goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Families with dependent children receive MA under FIP-related categories of assistance. BEM Items 110-145 describe the FIP-related categories. BEM 105, p. 1.

DHS provided the Administrative Law Judge with calculations of the Claimant's net income and deductible and that budget information is properly calculated for the periods of time when Claimant's niece was not living with her. However, this budget did not take into consideration the fact that Claimant's niece returned to live with her in December, 2009-January, 2010. DHS failed to provide a new budget for the December, 2009-January, 2010 period when Claimant's niece was living with her. It is impossible for me to determine whether the Claimant's change in circumstances affects her Medicaid coverage and her deductible. It is,

therefore, necessary for DHS to calculate a budget for December, 2009-January, 2010. I determine that DHS shall recalculate Claimant's MA benefits for this time period.

Third, with regard to Claimant's niece, DHS agreed at the hearing that they would add her to Claimant's family group and adjust Claimant's benefits accordingly for December, 2009 and January, 2010. As DHS has agreed to make this adjustment, it is not necessary for the Administrative Law Judge to come to a decision about it. BEM 135, p. 3.

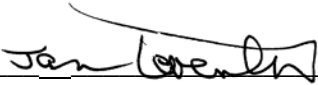
Fourth, with regard to Claimant's son's orthodontures, BAM 402, "MA/AMP Benefits," states on page 6 that the dental services covered by the program are x-rays, cavity fillings, extractions, teeth cleanings, root canals, sealants, fluoride treatments, examinations and dentures. I determine that this policy excludes braces from Medicaid dental coverage. I affirm the DHS denial of coverage for Claimant's son's braces.

I find that DHS calculated Claimant's countable income correctly. I find that DHS did not present budgets at the hearing and shall calculate three budgets reflecting the changes in Claimant's circumstances in 2009-2010. I find that DHS followed its policies and procedures in denying orthodonture treatment under the MA program to Claimant's son. I find that DHS has agreed to recalculate Claimant's benefits for the December, 2009-January, 2010 period and that this is a proper procedure as Claimant's niece returned to the home for that time. Claimant is entitled to any and all supplements for benefits she should have been awarded as a result of this. DHS' action in this case is, accordingly, **AFFIRMED IN PART** and **REVERSED IN PART**.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS is **PARTIALLY AFFIRMED AND PARTIALLY REVERSED**. DHS is Ordered to include Claimant's niece in the FAP-FIP groups for December, 2009-January, 2010,

and to calculate a budget reflecting that Claimant's niece returned home in December, 2009-January, 2010. DHS is also Ordered to determine whether Claimant's personal deductible is appropriate in December, 2009-January, 2010. DHS shall undertake such actions in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

Date Mailed: April 14, 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 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.

JL/pf

cc:

