

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

IN THE MATTER OF:



Reg. No: 2011 11738
Issue No: 3015; 2026
Case No: [REDACTED]
Hearing Date:
January 26, 2011
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing was held on January 26, 2011. The Claimant appeared and testified. Barb Evans ES appeared on behalf of the Department.

ISSUE

Was the Claimant's FAP case properly closed due to the Claimant's ineligibility due to net income?

Was the Claimant's medical spend down deductible properly computed?

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 was a FAP recipient and also received Medical Assistance with a spend down deductible amount.

2. The Claimant was an ongoing recipient of Food Assistance (FAP) benefits and his FAP case was closed due to the group's net income exceeding the net income limit.
3. The Claimant's FAP group consists of 5 members.
4. The net income limit for FAP benefits for a group of 5 is \$2150 as determined by RFT 250.
5. The Claimant pays a mortgage amount monthly of \$432.11, which includes taxes and insurance. Exhibit 1 The Claimant also pays for heat and was given a utility standard allowance of \$588. Exhibit 1
6. The Claimant's excess shelter deduction was not deducted from the Claimant's Adjusted Gross income to determine net income. Exhibits 2 and 3.
7. The Claimant's net income as calculated by the Department is incorrect because the shelter deduction of \$238 was not deducted. Exhibit 2 and 3.
8. The FAP budgets dated December 1, 2010 and January 1, 2011, as calculated by the Department, are incorrect and must be recomputed. Exhibits 2 and 3.
9. The Claimant has a medical deductible spend down amount in the amount of \$1051 per month. Exhibit 4
10. The Claimant lives in Wayne County and the protected income limit for 2 people is \$500 as determined by RFT 240.
11. The Claimant's earned and unearned income, and the earned income of the Claimant's wife, was reviewed and the Claimant confirmed the amounts as follows: earned income \$1185; unearned income from

unemployment \$1065 and spouse wife's income \$991. Exhibits 5, 6 and 7.

12. The Claimant's medical deductible of \$1051, as computed by the Department, was reviewed and contains no errors. Exhibit 8
13. The Claimant filed a request for a hearing on December 17, 2010, protesting the closure of his Food Assistance and the Medicaid spend down amount. The Claimant's hearing request was received by the Department on January 3, 2011.

CONCLUSIONS OF LAW

FAP BUDGET CALCULATIONS

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 Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, an individual or groups income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. A standard deduction from income of \$178 is allowed for households of claimant's size of five members RFT 255. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the

other deductions have been allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for shelter expense. In the Claimant's case, the Claimant's rent and standard utility allowance of \$588 were included in the shelter expense in accordance with Department policy; however, the excess shelter expense was not deducted from the adjusted gross income as required by BEM 554.

In this case, the Administrative Law Judge has reviewed both the FAP budgets of December 1, 2010 and January 1, 2011, and finds that the Department incorrectly excluded the excess shelter deduction and must re-compute both budgets.

The Claimant is reminded to report within 10 days any change in circumstances including income, rent, and medical expenses as these changes will potentially effect the FAP benefit amount. Any reduction in income will likely affect the amount of FAP benefits the Claimant is entitled to receive.

MEDICAL SPENDDOWN

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 (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).

The Claimant receives medical assistance as a G2 FIP related Medical recipient and the determination of income is governed by BEM 536. The Claimant's adult fiscal group consists of the Claimant and his spouse. The fiscal group composition is determined by BEM 211, page 5. The determination of the group's budgetable income is determined by consulting BEM 536 which requires the application of a series of steps to determine total net income and thus the proper spend down amount.

In the instant case, the Claimant questions the Department's calculation of his Medical deductible. The undersigned has reviewed the MA budget of January 1, 2011 and finds that the Department properly included the correct amounts for the Claimants earned and unearned income. After a review of the budget it is determined that the budget as calculated by the Department contains no error.

The claimant's protected income limit is \$500 and was used by the Department in determining the deductible spend down amount. RFT 240.

The protected income level is deducted from the net income \$1551 to get the remaining deductible spend down amount. The protected income limit of \$500.00 equals a \$1501.00 deductible. ($\$1551 - \$500 = \$1051$).

This ALJ sympathizes with the claimant but there is nothing that can be done to change the above equation as the Administrative Law Judge has reviewed the medical assistance spend down budget and found no errors.

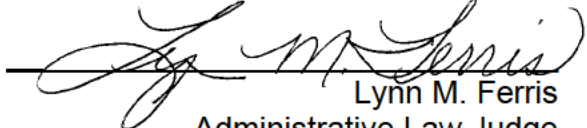
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Departments action closing the Claimant's food assistance case is REVERSED as the budgets as calculated are incorrect and do not

contain the excess shelter deduction. The Medical spend down amount of \$1501, as determined by the Department, is AFFIRMED.

Accordingly, it is ORDERED:

1. The Department shall re-compute the Claimant's FAP budgets for December 1, 2010 and January 1, 2011, and shall include the correct excess shelter deduction when computing both budgets.
2. The Department shall re-determine the Claimant's eligibility for FAP benefits, and if the Claimant is deemed eligible to receive FAP benefits after the budgets are recalculated, the Department shall issue a FAP supplement for any FAP benefits the Claimant was otherwise entitled to receive.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/10/11

Date Mailed: 02/16/11

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.

LMF/dj

cc:

[REDACTED]