

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-22783

Issue No: 3002; 2026

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on November 16, 2010. After due notice, a telephone hearing was held on June 28, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefits and Medicaid (MA) deductible?

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 submitted paystubs on October 28, 2010, updating the department of her actual income. (Department Exhibits 6-9).
2. The department mailed Claimant a Notice of Case Action on November 5, 2010, informing her that her FAP benefits would be decreasing to [REDACTED] a month effective December 1, 2010 through March 31, 2011 because her income had changed. (Department Exhibits 10-12).
3. The department mailed Claimant a Notice of Case Action on November 9, 2010, informing her that her Transitional Medicaid (TMA) program was closing effective January 1, 2011 because she no longer met the requirements, and she had been approved for a MA deductible of [REDACTED] beginning January 1, 2011. (Department Exhibits 1-4).

4. Claimant submitted a timely hearing request on November 16, 2010, protesting the decrease of her FAP benefits and change to a Medicaid deductible. (Request for a Hearing).

### CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Reference Tables Manual (RFT).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, Claimant testified that she had begun working more hours with her new employer, and when she submitted proof of her income, the department decreased her FAP benefits to \$16.00. Claimant stated that she wanted to continue receiving the same amount of FAP benefits as she had been prior to the increase in hours.

An extensive review of Claimant's undisputed budget by this Administrative Law Judge before rendering this Hearing Decision shows that all calculations were properly made

at review, and all FAP issuance/budgeting rules were properly applied. As such, the department's reduction of Claimant's FAP allotment must be upheld.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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. Medicaid is also known as Medical Assistance (MA).

The State of Michigan has set guidelines for income, which determine if a Medicaid group is eligible. Income eligibility exists for the calendar month tested when there is no excess income, or allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 Medicaid protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medicaid group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Reference Table (RFT). An individual or Medicaid group whose income is in excess of the monthly protected income level is ineligible to receive Medicaid. BEM 545.

However, a Medicaid group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for Medicaid, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The Medicaid group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

In order to qualify for Group 2 MA coverage, a medically needy person like Claimant must have income which is equal to or less than the Protected Income Level. This dollar figure is a set amount for all non-medical needs, such as food, shelter and incidental expenses. If an individual's income exceeds the Protected Income Level, the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a "deductible" case. In Claimant's case, the Protected Income Level is \$391.00. RFT 240. When the department subtracted this

dollar amount (i.e., [REDACTED]) from Claimant's countable net income (i.e., [REDACTED]), a [REDACTED] deductible amount resulted.

The inclusion of Claimant's earned income into her MA budget is required by policy. BEM 500. Unfortunately for Claimant, the imposition of a deductible restriction is inevitable in this case. Additionally, this Administrative Law Judge has reviewed the department's MA budgeting processes and finds all calculations were properly made. Consequently, the department's actions must be upheld, because they are in complete compliance with the department's policies, and with the governing laws and regulations on which those policies are based.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP benefits and correctly placed Claimant's MA case in deductible status with a [REDACTED] monthly deductible amount. Accordingly, the department's determination of FAP benefits and MA deductible is AFFIRMED. It is SO ORDERED.

\_ /s/ \_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 6/29/11

Date Mailed: 6/29/11

**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 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.

VLA/ds

■ [REDACTED]