

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-31961  
Issue Nos.: 2019, 3003  
Case No.: [REDACTED]  
Hearing Date: May 31, 2011  
DHS County: Wayne (82-43)

**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 [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 31, 2011. Claimant appeared and testified at the hearing. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

**ISSUES**

1. Whether DHS computed Claimant's Patient Pay Amount (spend-down or deductible) for the Medical Assistance (MA or Medicaid) program, in accordance with DHS policies and procedures?
2. Whether DHS computed Claimant's Food Assistance Program (FAP) allotment in accordance with DHS policies and procedures?

**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. In 2010, Claimant received FAP and MA benefits from DHS.
2. From March 2010 to the present, DHS required Claimant to pay an MA spend-down of \$878 per month.
3. From December 2010 to the present, DHS reduced Claimant's FAP benefits from \$200 per month to \$67 per month.

4. On January 14, 2011, DHS sent Claimant a Verification Checklist requesting verification of her mortgage expenses.
5. Claimant failed to return the Verification Checklist.
6. On April 21, 2011, DHS issued a Notice of Case Action reducing Claimant's FAP benefits to \$16 per month effective June 1, 2011.
7. On April 29, 2011, Claimant filed a Request for a Hearing with DHS.
8. At the Administrative Hearing on May 31, 2011, DHS offered to recompute Claimant's FAP benefits from December 1, 2010, to the present, taking Claimant's shelter expenses into consideration as appropriate.
9. Claimant accepted this offer and testified she no longer wished to continue the Administrative Hearing as to this issue.
10. The single issue remaining before the Administrative Law Judge is the issue of the MA Patient Pay Amount.

### **CONCLUSIONS OF LAW**

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

MA was established by Title XIX of the U.S. Social Security Act and is implemented in the Code of Federal Regulations Title 42. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *Id.*

BAM, BEM and RFT are the manuals with the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

### **Medicaid Patient Pay Amount**

The first Item applicable in this case is BEM 541, "MA Income Deductions – SSI-Related Adults." This section gives a \$20 unearned income deductible to Claimant and reduces her countable income for purposes of setting her PPA level. I reviewed the DHS budget procedures used in this case, and I find and conclude that DHS properly included the \$20 unearned income deductible in calculating Claimant's PPA.

I turn next to BEM 544, "MA Needs – Group 2." This Item provides a second deduction from the client's gross income. This is a deduction for the customer's living expenses (Protected Income Level). BEM 544 provides the instructions for calculating the Claimant's Protected Income Level and identifies two charts in the Reference Tables with the information that is necessary to make the calculation.

Going to RFT, I first determine from RFT 200, "MA Shelter Areas," that as Claimant lives in Wayne County, she falls within Shelter Area IV. Then, taking this information over to RFT 240, "MA Monthly Protected Income Levels," on this chart I find that a Shelter Area IV Claimant with a family group of one person is entitled to a Protected Income Level of \$375. Returning now to the Budget DHS prepared for Claimant, I find and determine that DHS provided Claimant with the \$375 Protected Income Level deduction as required by law.

In conclusion, based on the findings of fact and conclusions of law above, I find and determine that DHS used the proper income numbers, deductions and formulas, and arrived at the correct PPA in Claimant's case. I find that DHS acted correctly in this case and DHS is AFFIRMED as to Claimant's spend-down. I find and conclude that it is not necessary for DHS to take any further action regarding the spend-down.

### **Food Assistance Program**

I now turn to the settlement agreement of the parties regarding Claimant's FAP benefits. Under BAM Item 600, "Hearings," clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

In this case, the parties stipulated to a settlement agreement whereby DHS will recalculate Claimant's FAP budget from December 1, 2010, to the present, taking into appropriate consideration Claimant's shelter expenses, and adjust Claimant's FAP

benefits accordingly. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the issue presented in this case.

In conclusion, based on all of the findings of fact and conclusions of law and the stipulated agreement of the parties, I HEREBY ORDER that DHS shall recalculate Claimant's FAP benefits from December 1, 2010, to the present, including Claimant's shelter expenses as appropriate, and provide any adjustments to Claimant to which she is entitled.

**DECISION AND ORDER**

Based on my findings of fact and conclusions of law above, I find and determine that DHS is PARTIALLY AFFIRMED in this matter. IT IS ORDERED that DHS need take no further action in this case with regard to Claimant's MA PPA. IT IS FURTHER ORDERED, based on the above findings of fact and conclusions of law and the settlement agreement of the parties, that DHS shall recalculate Claimant's FAP budget from December 1, 2010, to the present, including Claimant's daughter's shelter expenses as appropriate, and provide retroactive supplemental FAP benefits as appropriate. All steps shall be taken in accordance with DHS policies and procedures.



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Jan Leventer  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: June 7, 2011

Date Mailed: June 8, 2011

**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.

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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:

