

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-32058

Issue No: 3014, 2026

[REDACTED]

Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 telephone hearing was held on June 21, 2011. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly reduce the claimant's Food Assistance Program (FAP) benefits due to a reduction in her group size?
2. Did the department properly calculate the claimant's Medical Assistance (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. The claimant's FAP case was originally budgeted using a group size of 5. (Department Exhibit 3-11).
2. On January 6, 2011, one of the members of the claimant's group, her daughter, Patricia McDaniel, filed to open her own FAP case claiming she was homeless. (Department Exhibit 1 and 2).
3. Based on [REDACTED] filing her own FAP case, the department re-budgeted the claimant's FAP case, excluding [REDACTED] from the

group, and in turn reducing the claimant's group size from 5 to 4. (Department Exhibit 3-11).

4. Based on the reduction in group size, the claimant's FAP benefits were reduced from [REDACTED]. (Department Exhibit 3-11).
5. The claimant's MA deductible was budgeted at [REDACTED] per month.
6. The claimant submitted a hearing request on March 18, 2011.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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 Program Reference Manual (PRM).

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 Program Reference Manual (PRM).

For purposes of establishing group composition and eligibility for FAP benefits, department policy provides that parents and their children under 22 years of age who live with them are considered part of the same FAP group. BEM 212. To "live with" means to share a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. BEM 211, BEM 212. A person who is temporarily absent from the FAP or MA group is considered living with the group so long as:

- His location is known; and
- He lived with the group before his absence; and
- There is a definite plan for his return; and
- The absence has lasted or is expected to last 30 days or less (unless the absent person is in the hospital and there is a plan for him to return home, in which case the absence may last longer than 30 days). BEM 211, BEM 212.

In the case at hand, the claimant's FAP benefits were reduced based on the change in her group size which resulted from her daughter [REDACTED] filing her own FAP case and stating that she was homeless and no longer living with the claimant (Department Exhibit 2). The claimant testified that her daughter is still residing occasionally at her residence, but that she does not reside there full time. The department testified that [REDACTED] had listed her mailing address as [REDACTED]. The claimant corroborated the testimony of the department that Patricia did use the [REDACTED] for mailing purposes, but also testified that Patricia was still receiving mail at her residence.

The claimant also testified that she has a guardianship over [REDACTED]. The department did provide guardianship papers issued by the [REDACTED] County Probate Court showing that the claimant does have a partial guardianship over Patricia; however, there was no indication that the claimant had a full guardianship or conservatorship for [REDACTED] (Department Exhibit 12-16). Patricia, therefore, is allowed wide latitude by the Probate Court to make certain decisions for herself and to manage her own finances. Department policy does not indicate that if a claimant has a guardianship (full or partial) over a person, that the person over whom the claimant has a guardianship is to be considered a member of the claimant's group by virtue of said guardianship/conservatorship. BEM 211, 212.

The evidence presented at the hearing does not show that the claimant's daughter, [REDACTED], is still residing permanently with the claimant. Furthermore, [REDACTED] use of a separate mailing address as well as her own application for FAP benefits would tend to show that she does not have an intention to return to the home of the claimant on a permanent basis. There was no evidence presented that Patricia still participates in the purchase or preparation of meals at the home of the claimant or that the home of the claimant serves as the sleeping quarters for Patricia. The department therefore properly excluded [REDACTED] from the claimant's group, reducing the group size from 5 to 4.

The claimant has not disputed the income amount, shelter deduction amount, medical deduction amount, or any other amounts contained in the budget aside from the group size used in the calculation.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has

prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$226.00 (beginning March 1, 2011), which was accurately computed by the department.

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). BEM 105.

The State of Michigan has set guidelines for income, which determine if an MA 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. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance 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 Program Reference Table (PRT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a MA 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 MA, 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 MA 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 this case, during the time period in question, Claimant's protected income level for purposes of the MA program was [REDACTED] for a group size of one. RFT 240. The claimant did not dispute any amounts used by the department in calculating her MA deductible, therefore, the claimant's unearned income was calculated using the claimant's monthly gross RSDI payment of \$ [REDACTED], once the unearned income general exclusion of [REDACTED] of insurance premiums are subtracted, the claimant is left with a countable net income of [REDACTED]. Once the protected income level of [REDACTED] is subtracted from Claimant's countable net income of [REDACTED], the

result is a monthly MA deductible of \$588.00 for the Claimant. This Administrative Law Judge therefore finds that the department properly determined Claimant's Medicaid eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly reduced the claimant's FAP benefits and properly determined the claimant's MA deductible amount.

Accordingly, the department's determination is UPHELD. SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/28/11

Date Mailed: 6/28/11

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.

SM/ds

