

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20113438
Issue No.: 2017; 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
Office: Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 29, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly redetermined Claimant to have excess income for Food Assistance Program (FAP) benefits and Medicare Savings Program (MSP) benefits.

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 was an ongoing FAP and Medical Assistance (MA) benefit recipient.
2. As part of Claimant's ongoing MA benefits, Claimant was eligible for MSP coverage.
3. Claimant is part of a one-person FAP and MA group.
4. Claimant received \$1041/month in Retirement, Survivors, Disability Insurance (RSDI) income (Exhibit 7) based on being a disabled individual.
5. Claimant received gross employment income of: \$207 on 9/3/10, \$198 on 9/10/10, \$207 on 9/17/10 and \$204.75 on 9/24/10 (Exhibit 6).

6. Claimant's MA benefits were scheduled to end 10/31/10 subject to redetermination.
7. Claimant's FAP benefits were scheduled to end 9/30/10 subject to redetermination.
8. Claimant submitted all necessary documents for his MA and FAP benefit redeterminations.
9. On 10/7/10, DHS determined that Claimant had excess income for FAP benefits (Exhibit 1) and MSP benefits (Exhibit 3) effective 11/1/10.
10. Claimant requested a hearing on 10/13/10 disputing the termination of FAP benefits and MSP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* FAP groups with countable earnings and a 12-month benefit period must have a semi-annual contact. *Id.* at 6.

In the present case, DHS redetermined Claimant's FAP benefits beginning 11/2010. Claimant disputes the DHS determination that he had excess income for FAP benefit eligibility. BEM 556 outlines the proper procedures for calculating FAP benefits.

For non-child support income, DHS is to budget income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 at 4. It was not disputed that Claimant receives \$1041/month in RSDI income. For all programs, the gross amount of RSDI is countable income. BEM 503 at 20.

Claimant also received employment income. Weekly income must be converted to a monthly standard by multiplying the average income by 4.3. BEM 505 at 6. Multiplying

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Claimant's average employment check (\$204.18) by 4.3 results in a monthly employment gross income of \$878.

DHS only counts 80% of a FAP member's reported monthly gross employment income in determining FAP benefits. 80% of Claimant's employment income is \$702 (dropping cents).

Claimant's total monthly income is calculated by adding the countable unearned and earned income. Adding Claimant's countable RSDI and employment income results in a total countable income of \$1743.

Claimant's one-person FAP group receives a standard deduction of \$141. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. Claimant's adjusted gross income amount is found to be \$1602, the same as calculated by DHS.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For groups with a senior, disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities), court ordered child support and arrearages paid to non-household members. *Id.* DHS may consider medical expenses for any group members that are senior, disabled or a disabled veteran that exceed \$35/month. *Id.* No other expenses may be considered.

Claimant's shelter costs were not disputed. Claimant verified a mortgage of \$593.56/month, property tax obligation of \$2358.44/year and a property insurance obligation of \$1031/year. Claimant is also eligible for the maximum heat/utility credit given by DHS, \$588/month. RFT 255 at 1. Claimant's total shelter expenses are found to be \$1464/month.

Claimant's excess shelter cost is the difference between the total shelter costs (\$1464) and half of Claimant's adjusted gross income (\$1602). It is found that Claimant's excess shelter credit is \$663, the same as calculated by DHS.

Claimant's excess shelter costs (\$663) are subtracted from the adjusted gross income (\$1602) to calculate net income for purposes of FAP benefit eligibility. It is found that Claimant's net income for purposes of FAP eligibility is \$939, the same as calculated by DHS. If Claimant's net income exceeds the monthly net income amount from RFT 250 then FAP benefits are to be denied. The net income limit for a one person group is \$903/month. Claimant's net income exceeds the net income limit for FAP benefits. It is found that DHS properly determined Claimant to be over-income for FAP benefits effective 11/2010.

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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them. MSP is part of the MA benefit program.

MSP programs offer three different degrees of assistance with payment toward a client's Medicare premium and deductibles. Qualified Medicare Beneficiaries (QMB) coverage pays for a client's Medicare premiums, deductibles and coinsurances. Specified Low Income Beneficiaries (SLMB) coverage pays for a client's Medicare Part B premium. Additional Low Income Beneficiaries (ALMB) coverage pays for a client's Medicare Part B premium if funding is available.

The type of coverage a client receives depends on the client's income. BEM 165 at 2. Countable income for MSP is calculated according to the SSI-related MA policies in BEM 500 and 530. BEM 165 at 6. DHS is to apply the deductions in BEM 541 (for adults) to countable income to determine net income.

If prospecting income based on weekly pay, the average weekly pay is to be multiplied by 4. BEM 530 at 4. Claimant's employment income for purposes of MSP eligibility is found to be \$816.

Claimant receives a \$20 disregard from his unearned income (RSDI) making Claimant's monthly countable unearned income to be \$1021/month. BEM 541 at 3. DHS is also to disregard \$65 plus 1/2 of the fiscal group's remaining earnings (employment income). *Id* at 3. Subtracting \$65 from Claimant's monthly employment income (\$816) results in \$751. Disregarding half of the remaining earnings creates a countable employment income of \$375 (dropping cents). Adding Claimant's countable earned income (\$375) to Claimant's countable unearned income (\$1021) results in a total countable income of \$1396.

Income eligibility for MSP exists when a client's net income is within the limits as found in RFT 242. The net income limit for MSP eligibility is \$1219/month. RFT 242. Claimant's net income exceeds the net income limits for MSP eligibility. It is found that DHS properly determined Claimant to have excess income for MSP benefits effective 11/2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP benefits and eligibility for MSP effective 11/1/10. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/8/2010

Date Mailed: 12/8/2010

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 60 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.

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