

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-34406
Issue No.: 2026; 3014; 3015
Case No.: [REDACTED]
Hearing Date: June 16, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

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 16, 2011. Claimant appeared and testified. Sunday Lanford, Claimant's sister, also testified on behalf of Claimant. The Department of Human Services (Department) was represented by [REDACTED] ES, and [REDACTED] ES.

ISSUE

Was the Department correct in its decision to include Claimant's legally separated spouse in Claimant's Food Assistance Program (FAP) group?

Was the Department correct in closing Claimant's FAP case due to excess income?

Was the Department correct in its decision to include Claimant's legally separated spouse in Claimant's Medical Assistance (MA) group?

Was the Department correct in its calculation of Claimant's 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 was an ongoing FAP and MA recipient with a deductible.
2. Claimant and her spouse are legally separated.
3. Claimant lives in the same residence as her spouse.

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4. The Department included Claimant's spouse in her FAP and MA groups.
5. Claimant's spouse receives \$1,735.50 in RSDI benefits.
6. Claimant receives \$645.00 in RSDI benefits.
7. The Department closed Claimant's FAP case due to excess income.
8. The Department determined that Claimant's MA case would have a deductible of \$1,774.00.
9. Claimant requested a hearing on the amount of the deductible for the MA case and the inclusion of Claimant's spouse in her FAP group.

CONCLUSIONS OF LAW

Food Assistance Program (FAP)

FAP 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 administers the FAP program pursuant to CML 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, which includes the Reference Tables (RFT).

BEM 212, p. 1, dictates:

FAP group composition is established by determining:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation (see Living Situations).

.....
Living with means sharing a home where family members usually sleep and share **any** common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share **only** an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are **not** considered living together.

BEM 212. p. 2

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Spouses who are legally married and live together **must** be in the same group.

In the present case, Claimant testified credibly that she and her spouse are legally separated. However, Claimant does not deny that she lives in the same residence as her spouse and that she shares common living quarters with him. Therefore, the Department was correct in including Claimant's spouse in Claimant's FAP group, as nothing in policy allows for an exception to group inclusion for those spouses who are legally separated.

The FAP budget was not submitted for review, so I am unable to determine whether the Department was correct in closing Claimant's FAP case due to excess income. Therefore, it is found that the Department was not correct in closing Claimant's FAP case.

MEDICAL ASSISTANCE

The Medical Assistance (MA) program is established by the 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 Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled.
BEM 105, p. 1.

BEM 211, p.1 dictates that only persons living with one another can be in the same group.
BEM 211, p. 2 defines "Living With" as : "sharing a home where family members usually sleep . . ."

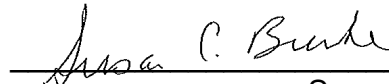
BEM 211, p. 4 and 5 dictates that an adult's fiscal group is an adult and her spouse.

In the present case, Claimant admits that she shares a home with her spouse, even though she and her spouse are legally separated. Therefore, the Department was correct in including Claimant's spouse in Claimant's fiscal group, as nothing in policy allows for an exception to inclusion for legally separated spouses.

The MA budget was submitted for review, but no testimony was given regarding Claimant's ongoing medical expense. In addition, it is unclear why Claimant was considered to be SSI-related as opposed to FIP related for budget purposes. Without this information, it cannot be determined whether the Department was correct in its calculation of Claimant's deductible. Therefore, it is found that the Department was not correct in its calculation of Claimant's MA deductible.

DECISION AND ORDER

Based upon the above findings of fact and conclusions of law, it is concluded that the Department was correct in its decision to include Claimant's spouse in her FAP and MA groups, but incorrect in its calculation of Claimant's FAP and MA budgets and it is therefore ORDERED that the Department's decision is REVERSED. It is further ORDERED that the Department shall re-determine Claimant's FAP eligibility effective of the date of closure of her FAP case, and if she meets eligibility requirements, reinstate Claimant's FAP case and issue any missed payments in the form of a supplement. It is further ORDERED that the Department shall recalculate Claimant's MA deductible using the appropriate MA program and taking into account ongoing medical expenses.



Susan Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/21/11

Date Mailed: 6/21/11

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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 of the rehearing decision.

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