

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20113441
Issue No: [REDACTED]
Case No: [REDACTED]
Load No: 8120000000
Hearing Date:
December 1, 2010
Washtenaw 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 October 14, 2010. After due notice, a telephone hearing was held on December 1, 2010. Claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly determine Claimant's Family Assistance Program (FAP) benefits?
2. Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility spend-down?

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

FINDINGS OF FACT

1. The department mailed Claimant a Notice of Case Action on October 6, 2010, decreasing Claimant's FAP benefits to \$16.00 per month and informing Claimant she had a \$1,629.00 MA deductible based on Claimant's income exceeding the limit for the program. (Department Exhibit 3).
2. Claimant's Senior Disabled Veteran (SDV) FAP group size is 2.

3. Claimant submitted a hearing request on October 14, 2010 contesting the denial of her FAP application and the amount of her spend-down for MA. (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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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 Program Reference Manual (BRM).

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. BEM 505.

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's husband had been receiving unemployment compensation benefits (UCB) which ended in September 2010. Prior to the UCB benefits actually ending on September 7, 2010, the department removed his UCB benefits from the September budget and recomputed Claimant's FAP budget and MA deductible without her husband's UCB benefits. This caused an increase in Claimant's FAP benefits from \$16.00 to \$367.00 per month. Claimant did not have a MA deductible when her husband's UCB benefits were no longer counted. However, based on the Bridges system update with UCB, it was discovered that Claimant's husband's unemployment benefits had been extended. This resulted in the department running a new FAP and MA budget which decreased Claimant's FAP benefits from \$367.00 per month back down to \$16.00 month. As a result of the extension, and hence the inclusion of her husband's unemployment compensation, Claimant also had a Medicaid deductible of \$1,629.00.

Claimant contends that the department has cut off her benefits before and that as a result of a previous hearing over the summer of 2010, her benefits were increased for September and October 2010. A review of the hearing decision issued by Judge Sundquist from August 24, 2010, shows Judge Sundquist reversed the department's finding that Claimant had a spend down of \$1,629.00. However, that decision was based on Judge Sundquist's finding that the department could not explain how it reached the \$1,629.00 spend-down, not that the amount of \$1,629.00 was incorrect.

In this case, Claimant's husband was receiving \$1,556.00 per month from UCB. He was being paid bi-weekly, and the department determined this amount by multiplying Claimant husband's gross income of \$724.00, by a 2.15 conversion factor in accordance with the applicable department policy. Therefore, Claimant's husband received a total monthly income of \$1,556.00. Claimant received monthly RSDI of \$742.00. Together, Claimant and her husband were receiving monthly unearned income in the amount of \$2,298.00 at the time relevant to this matter. For FAP purposes, the department would be required to apply a standard deduction of \$141.00 to the countable gross income of Claimant's FAP group. RFT 255. After applying that standard deduction, Claimant would be left with adjusted gross income of \$2,157.00 (\$2,298 - \$141).

The department determines a FAP group's net income by deducting certain allowable expenses. These expenses include dependent care expenses, medical expenses, child support expenses, and shelter expenses. BEM 554. Claimant did not report any medical, dependent care, or child support expenses. Claimant had shelter expenses only. Claimant's monthly rent was 700.00, and she had a monthly heat/utility (including telephone) obligation. The department properly gave Claimant the heat/utility (including telephone) standard of \$588.00. RFT 255.

Claimant's total shelter expense was properly determined to be \$1,288.00 (\$700 + \$588). Pursuant to department policy, 50% of \$2,157.00, Claimant's adjusted gross income, which is \$1,078.00 must be deducted from her total shelter. This would result in excess shelter of \$210.00 (\$1,288 - \$1,078). Since Claimant meets the

senior/disabled/veteran criteria, the department would be required to deduct her excess shelter expense of \$210.00 from her adjusted gross income of \$2,157.00, which leaves net income of \$1,947.00. BEM 556.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of two with net income of \$1,947.00 is entitled to a \$16.00 FAP allotment. Therefore, the department's FAP eligibility determination was correct based on Claimant's husband's UCB benefits being included in the FAP budget.

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 Bridges Reference Manual (BRM).

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). Michigan provides MA for eligible clients under two classifications: Group 1 and Group 2 MA. Claimant falls under the Group 1 SSI-related MA classification, which consists of clients whose eligibility results due to being aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. MCL 400.106; MSA 16.490(16), MCL 400.107; MSA 16.490(17) and 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.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protective basic maintenance level. Agency policy sets forth a method for determining the protective basic maintenance level by considering: (1) The protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services, if determining eligibility for clients in adult-care homes. The protected income level is the set amount for non-medical needs such as shelter, food, and incidental expenses. In all other situations, other than those involving long-term care, the appropriate income level must be taken from RFT 240. BEM Item 544 and 42 CFR 435.811-435.814. If the client's income exceeds the protected income level, the excess amount (MA deductible) must be used to pay medical expenses before Group 2 coverage can begin.

An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA coverage. However, an 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 Item 545; 42 CFR 435.831.

Policy requires the Department to count and budget all gross income received that is not specifically excluded or all income that can be reasonably anticipated by the fiscal group. There are three main types of income: countable earned, countable unearned, and excluded. BEM Items 500 and 530.

Department policy states:

**RETIREMENT, SURVIVORS, AND DISABILITY
INSURANCE (RSDI) (AKA SOCIAL SECURITY
BENEFITS)**

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. BEM, Item 500.

In the instant case, the department determined Claimant's net unearned income based upon her receipt of \$2,190.00 in gross unearned income in the month of September 2010. The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's net income, after being provided with the most beneficial unearned income deduction of \$20.00, was \$2,170.00 in net income. Federal Regulations at 42 CFR 435.831 provide standards for the determination of the Medical Assistance monthly protected income levels. The department, in this case, is in compliance with the Bridges Reference Manual, tables, charts and schedules, table 240-1. Table 240-1 indicates that the claimant's monthly protected income level for a person in claimant's fiscal group in claimant's situation for a group of 2 persons is \$541.00 which would have her left with \$1,629.00 in monthly excess income (\$2170 – \$541). The department's determination that Claimant had excess income for purposes of Medical Assistance eligibility is correct.

This Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant had excess income for purposes of Medical Assistance benefits and when it determined that claimant had a Medicaid spend-down for the time period in question.

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 and MA.

Accordingly, the department's decisions are UPHELD.

SO ORDERED.

/s/

Vicki Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 20, 2010

Date Mailed: December 20, 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.

VLA 

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