

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201142334
Issue No.: 3002 2015
Case No.: [REDACTED]
Hearing Date: August 31, 2011
Oakland County DHS (02)

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 August 31, 2011 from Detroit, Michigan. The claimant appeared and testified; Hyder Baqir also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimant's Food Assistance Program (FAP) benefits due to excess income.
2. Whether DHS properly determined Medical Assistance (MA) benefits for Claimant's children as Medicaid subject to a \$2389/month deductible.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant's children were ongoing Medicaid recipients.
3. Claimant was part of a household group of four persons that included her husband and two minor children.

4. Claimant's spouse received the following weekly gross employment income amounts on the following dates: \$584.06 on 5/5/11, \$678.02 on 5/12/11, \$563.18 on 5/19/11 and \$526.64 on 5/26/11 (see Exhibit 1).
5. Claimant's spouse also received gross self-employment income of \$1120/month (see Exhibit 3).
6. DHS budgeted a gross self-employment income of \$1200/month.
7. On an unspecified date, DHS determined that Claimant was not eligible for FAP benefits effective 7/2011 due to excess income (see Exhibit 2).
8. On an unspecified date, DHS determined that Claimant's children were eligible for Medicaid subject to a \$2304/month deductible.
9. On 6/30/11, Claimant requested an administrative hearing to dispute the termination of FAP benefits and determination that his children were eligible for Medicaid subject to a deductible.
10. Following the administrative hearing, DHS updated Claimant's children's eligibility to Medicaid subject to a \$2005/month deductible.

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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

The undersigned will refer to the DHS regulations in effect as of 6/2011, the estimated month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

Claimant questioned the validity of the DHS decision terminating FAP benefits effective 7/2011. BEM 556 outlines the proper procedures for calculating FAP benefits.

The first step in the process is to calculate the FAP benefit group's gross monthly income so a gross income test can be performed. The gross income test is only applicable for groups without a senior, disabled or disabled veteran (SDV) member.

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BEM 556 at 3. It was not disputed that Claimant's FAP group had no SDV members; thus, the gross income test must be performed.

If a FAP benefit group's gross income exceeds the gross income limit, the group is ineligible for FAP benefits. It should be noted that a group's expenses are irrelevant to the gross income test. Expenses are only factored after a benefit group passes the gross income test.

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. DHS is to count the gross employment income amount. BEM 501 at 5.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. BEM 505 at 6. The average of the weekly employment income received by Claimant's spouse is \$587.97 (rounding down). Multiplying the average check by 4.3 creates a gross monthly budgetable income of \$2528 (dropping cents).

The gross income limit for a group of four persons is \$2389. RFT 250 at 1. The FAP benefit group's gross income exceeded the gross income limits which properly resulted in termination of FAP benefits based on income-eligibility.

It should be noted that the above calculation did not have to consider Claimant's spouse's self-employment. Though DHS improperly counted the income as \$1200/month rather than \$1120/month (see Exhibit 3), Claimant's household would have exceeded the gross income limit even if the self-employment income was completely disregarded.

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). DHS 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.

DHS determined Claimant's children to be eligible for MA benefits subject to a \$2304/month deductible. Claimant also requested a hearing to dispute her children's lack of eligibility for ongoing Medicaid.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. 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. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.*

For minor children, an MA benefit decision should begin with an Other Healthy Kids (OHK) determination. For income eligibility for OHK, DHS is to apply MA policies in BEM 500, 531, and 536 to determine net income. BEM 131 at 2. Income eligibility exists when net income does not exceed 150% of the poverty level. *Id.*

For MA benefits, DHS does not convert weekly income to a monthly period by multiplying the average weekly income. DHS merely adds the income from a 30 day period. Adding Claimant's spouse's non-self-employment income results in a total of \$2351.90.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 503 at 3. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. *Id.*

In the present case, it is known that DHS improperly determined Claimant's spouse's self-employment income as \$1200/month. The actual self-employment income is \$1120/month (see Exhibit 3). Claimant contended that the self-employment expenses far exceed the standard 25% self-employment expense credit. However, Claimant failed to verify the expenses with receipts. Thus, DHS properly did not give Claimant credit for more than 25% in self-employment expenses.

Applying the 25% credit results in a countable self-employment amount of \$840. Adding the self-employment income to the other employment income creates a total countable amount of \$3191 (dropping cents).

DHS is to give a \$90 credit for employment income. The credit reduced the countable income to \$3101.

DHS also gives further credits if the group: received Family Independence Program or Low Income Family within the previous four months, pays dependent care expenses, pays guardianship expenses, pays child support or receives child support. Claimant did not contend to have any of these expenses.

The countable income (\$3101) is divided by the sum of 2.9 and Claimant's number of dependents (three based on Claimant's two minor children and spouse). Dividing \$3101 by 5.9 creates a prorated share of income of \$525 (dropping cents) for Claimant's spouse. The \$525 is multiplied by 2.9 to determine the father's share of income then added to \$525 which represents the child's share of the father's income and \$525 again as Claimant's share of her spouse's income. The total is \$2572 (dropping cents).

Note that the OHK benefit group is considered a three person group because the group consists of a child seeking MA and the child's parents (see BEM 211 at 5). The net income limit for a three person OHK group is \$2317. RFT 246 at 1. The above determination applies equally to each of Claimant's children. It is found that DHS properly determined Claimant's children to have excess income for OHK.

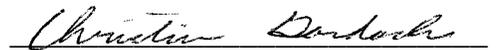
Claimant's children can still receive Medicaid through G2U (for being under 21 years of age). The net income calculation for G2C is the same as OHK. The income limit for a three person MA group is \$567. RFT 240. The amount that Claimant's total net income (\$2572) exceeds the income limit (\$567) is the amount of Claimant's children's deductible. It is found that Claimant's children are properly eligible for Medicaid subject to a \$2005/month deductible.

DHS originally determined Claimant's spouse's deductible as \$2304/month. DHS provided documentation verifying the deductible was properly recalculated and reduced to \$2005/month. It is found that DHS properly determined Claimant's children's MA deductible.

Claimant has many options for having the DHS MA benefit determination reevaluated. Possible changes that would affect the MA benefit determination include verifying any of the following: a reduction in employment income, self-employment expenses exceeding 25% of the income or legitimate dependent care expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for FAP and MA benefits. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

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Date Signed: September 2, 2011

Date Mailed: September 2, 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.

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.

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