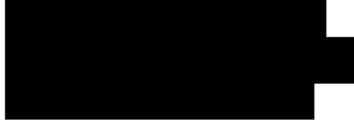


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-4301
Issue No.: 2026/3002
Case No.:
Load No.:
Hearing Date: December 2, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 2, 2010. The claimant appeared and testified. , FIM and , ES appeared and testified on behalf of the Department.

ISSUE

1. Did the Department properly compute the Claimant's Medical Assistance (MA) deductible?
2. Did the Department properly compute the Claimant's Food Assistance (FAP) 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. On October 14, 2010, after a redetermination, the department determined the claimant eligible for Medical Assistance (MA) based on a MA spenddown (deductible). The deductible currently is \$1771 per month, based on an unearned countable income from a private policy for long term disability of \$2316.14. (Department Exhibit 1).
2. The claimant confirmed the amount of her unearned income from her long term disability policy at the hearing. Exhibit 2

3. The claimant's Medical Assistance changed from LIF Medicaid to a deductible when the claimant began receiving the long term disability income.
4. The Department also recalculated the Claimant's FAP budget at redetermination based on the Claimant's income and her FAP benefits were reduced to \$16.00.
5. The Claimant's FAP group consists of two persons and the Claimant pays rent in the amount of \$900 and was given a utility allowance of \$555.
6. The Department correctly calculated the Claimant's deductible spend down amount. Exhibit 3
7. The Department correctly calculated the Claimant's FAP benefits.
8. On March 5, 2009, the Claimant filed a request for a hearing protesting the deductible amount placed on her MA and her FAP allotment on March 1, 2009.

CONCLUSIONS OF LAW

MEDICAL DEDUCTIBLE/ SPEND DOWN

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, the Claimant questions the Department's calculation of her Medical Assistance (MA).

The undersigned has reviewed the MA budget which established the deductible and finds it to be correct. The claimant's unearned income is \$2316.34, per month, and the protected income limit of \$541.00 as established by RFT 240 equals a \$1771.00 deductible.

The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses.

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PRT 240 lists the Group 1 MA PILs based on shelter area and fiscal group size. (PEM 544, p. 1) And:

The claimant lives in area VI and the protected income level is \$541.00 for a group of two. (RFT 240, p.1).

As discussed at the hearing the Claimant currently has ongoing medical expenses and the Department agreed to assist the Claimant with verifying the amount of her ongoing medical costs so that she can meet her deductible amount. The claimant is urged to seek verifications from her medical providers and submit them to the Department as soon as possible. This ALJ sympathizes with the claimant but there is nothing that can be done to change the above equation.

FOOD ASSISTANCE CALCULATION

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 Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$141 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members, the disability must be determined by a public, either Federal or State program. BEM 554. The Claimant receives her income from an employer's long term disability policy and thus her medical expenses cannot be deducted. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. In this case the Claimant received the Standard utility deduction of \$555 which is correct.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department properly computed the claimant's gross income. The gross unearned income benefit amount must be counted as unearned income, which is \$2316

in the current case, before any deductions. BEM 500. This amount was verified by the claimant during the course of the hearing.

The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant stated that her housing expense was \$900 per month. This was the amount the department used in calculating the budget. Claimant was given the standard utility deduction of \$555. The Administrative Law Judge computed claimant as having a net income of \$1774. 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 of 2 and net income of the claimant is eligible for an FAP allotment of \$16. The Administrative Law Judge has reviewed the budget and found no significant errors.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS the Department's decision with regard to the computation of the Claimant Medical Assistance spend down amount and the Claimant's FAP allotment.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/7/2010

Date Mailed: 12/7/2010

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 of the rehearing decision.

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