

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.: 2011-5061
Issue No.: 2000/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 8, 2010
Wayne County DHS (15)

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 December 8, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

1. Whether Claimant timely requested a hearing concerning a termination of Medical Assistance benefits.
2. Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits issuance beginning 10/2010.

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 MA recipient receiving ongoing Medicaid for himself.
2. In 4/2008, DHS terminated Claimant's MA benefits for unspecified reasons.
3. Claimant was also an ongoing FAP benefit recipient.
4. As of 9/2010, Claimant was part of a two person household which included Claimant and his minor child.

5. In 9/2010, Claimant received \$1192.50 in ongoing gross Retirement, Survivors, Disability Insurance (RSDI) income and his minor child received \$596/month in ongoing RSDI income.
6. In 9/2010, Claimant's RSDI income was reduced for an ongoing \$96.50/month Medicare premium payment.
7. In 9/2010, Claimant was responsible for a \$500/month rent obligation.
8. In 9/2010, DHS failed to budget Claimant's child's \$596/month in income and issued an improperly high \$186 in FAP benefits to Claimant for the benefit month.
9. Effective 10/2010, DHS correctly budgeted Claimant's child's RSDI income and determined that Claimant was eligible for \$16/month in ongoing FAP benefits.
10. Claimant requested a hearing on 10/20/10 disputing the 4/2008 MA benefit termination and the reduction of FAP benefits to \$16/month effective 10/2010.

CONCLUSIONS OF LAW

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.

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

Claimant testified that he knew he once had Medicaid coverage and recently discovered that he no longer had it. Claimant was uncertain how recently he had Medicaid coverage. Though Claimant failed to specify this issue in his request for hearing, he

stated he wants to dispute the MA termination of his Medicaid. During the hearing, DHS discovered that Claimant last had Medicaid in 4/2008.

Claimant stated he did not receive a Notice of a Case Action of the MA termination. If DHS failed to send a Notice of Case Action concerning termination of MA benefits, it could be found that Claimant is not bound by the 90 day timeline to request a hearing because the 90 day period would not begin until the written notice was sent. The undersigned is not inclined to find that Claimant provided DHS sufficient notice of the MA benefit termination issue. DHS could not reasonably expect to defend an action that occurred 30 months prior to the hearing request date without any specific reference to the action in the hearing request. It is found that Claimant failed to provide DHS sufficient notice of his dispute concerning his termination of MA benefits.

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).

Claimant also disputed a reduction in FAP benefits to \$16 in 10/2010. Though it is not necessary to determine what difference from 9/2010 to 10/2010 caused a reduction, the evidence indicated that DHS failed to budget RSDI income for Claimant's son in 9/2010. However, it is still necessary to determine whether Claimant's 10/2010 FAP benefits were calculated correctly. 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 established that Claimant received \$1192.50/month in gross RSDI income and his son received \$596/month in RSDI income. Though Claimant disputed these amounts, Claimant had no evidence to show that he received less income and eventually conceded that the RSDI amounts were correct. DHS credibly testified that these amounts were obtained from a database exchange with Social Security Administration (SSA). For all programs, the gross amount of RSDI is countable income. BEM 503 at 20. It is found that Claimant's total countable monthly gross income is \$1788/month (\$1192+\$596) (dropping cents).

Claimant's two-person FAP group (claimant and his child) receives a standard deduction of \$141. RFT 255. The standard deduction is subtracted from the countable monthly income to calculate the FAP group's adjusted gross income. The adjusted gross income amount is found to be \$1647.

Claimant is entitled to two deductions. As a disabled individual, Claimant is entitled to a medical expenses deduction, but only for medical expenses that exceed \$35/month. It was established that Claimant pays a \$96.50/month Medicare premium; there was no evidence of any other medical expenses. The amount of Claimant's medical expenses that exceeds \$35 is \$61 (dropping cents).

DHS also gave credit to Claimant for a \$500/month rent obligation; Claimant agreed with this obligation amount. Claimant was issued the maximum utility credit allowed by DHS policy, \$588. RFT 255. The rent expense is added to the utility expense to calculate Claimant's total monthly housing obligation of \$1088.

Claimant's excess shelter credit is the difference between Claimant's housing costs (\$1088) and half of Claimant's adjusted gross income subtracted by Claimant's countable medical expenses. The excess shelter amount is found to be \$295 (rounding cents up).

Claimant's net income for purposes of FAP benefits is determined by taking Claimant's adjusted gross income (\$1647) and subtracting the excess shelter cost (\$295) and Claimant's countable medical expenses (\$61). Claimant's net income is found to be \$1291. Based on a FAP group of two persons with a net income of \$1291, Claimant's proper FAP benefit issuance is calculated to be \$16, the same as calculated by DHS. RFT 260 at 12. It is found that DHS properly calculated Claimant's FAP issuance for 10/2010 as \$16/month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's hearing request failed to provide DHS sufficient notice of a dispute concerning a 30 month old MA benefit termination. Claimant's hearing request is partially DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly reduced Claimant's FAP benefits to \$16/month effective 10/2010. The actions taken by DHS are partially AFFIRMED



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

Date Signed: 12/14/2010

20115061/CG

Date Mailed: 12/14/2010

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 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.

CG/jlg

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