

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

IN THE MATTER OF:



Reg. No.: 2011-11886
Issue Nos.: 2026, 3003
Case No.: [REDACTED]
Hearing Date: January 26, 2011
DHS County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Susan C. 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 hearing was held on January 26, 2011. Claimant appeared and testified. [REDACTED], appeared on behalf of the Department of Human Services (Department).

ISSUE

1. Was the Department correct in its determination of Claimant's Food Assistance (FAP) benefits?
2. Was Claimant's Medical Assistance (MA) spend-down (deductible) calculated correctly by the Department?
3. Was the Department correct in not applying Claimant's non-verified medical expenses toward the spend-down amount?

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 a FAP recipient and also received MA with a spend-down (deductible) amount.
2. Claimant received Unemployment benefits in the amount of \$580.00 every two weeks (gross).
3. Claimant's housing expenses were \$290.49 per month.

4. Claimant received a Notice of Case Action dated December 11, 2010, showing his MA spend down to be \$505.00 beginning November 1, 2010, \$1516.00 beginning December 1, 2010 and \$719.00 beginning January 1, 2011, and his FAP benefits to be \$16.00 per month effective January 1, 2011.
5. Claimant requested a hearing on December 17, 2010, protesting the amount of the spend-down for MA and the amount of FAP benefits.

CONCLUSIONS OF LAW

FAP Budget Calculations

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 administers FAP 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 (PRM), which includes Reference Tables (RFT).

When determining eligibility for FAP benefits, an individual or group's income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. A standard deduction from income of \$141.00 is allowed for households of Claimant's size of one member. RFT 255. Certain non-reimbursable medical expenses above \$35.00 a month may be deducted for senior/disabled/veteran group members. 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 \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554. Any other expenses are considered non-critical and, thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for shelter expense.

In this case, the Administrative Law Judge has reviewed the FAP budget of January 1, 2011, and finds that the Department was correct in determining that Claimant was entitled to receive FAP benefits in the amount of \$16.00. The unearned income benefit amount of \$1,247.00 ($\580.00×2.15) (BEM 505, p. 6) is used in this calculation, as well as the housing costs of \$290.49 (Exhibit 3) and the utility standard of \$588.00. Based on this review, the Department correctly calculated Claimant's FAP benefits to be \$16.00 per month. RFT 260.

Medical Spend-Down

The 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 (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 BAM, BEM and PRM which includes RFT.

The goal of MA is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM105. 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.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA-protected income levels based on shelter area and fiscal group size. BEM 544. An eligible MA group (Group II MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the PRT. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, an MA group may become eligible for assistance under the deductible program. A deductible 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 545; 42 CFR 435.831.

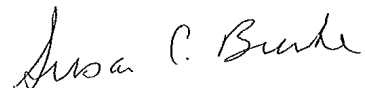
In the instant case, Claimant questions the Department's calculation of his MA deductible. The undersigned has reviewed the MA budgets for November 1, 2010, December 1, 2010 and January 1, 2011, and finds that the Department did not calculate correctly Claimant's MA spend down amount. Specifically, the budget summary (Exhibit 11) submitted by the Department shows an MA budget amount for December, 2010 to be \$1679.00, yet the budget for December, 2010 included net income of \$1,891.00 (Exhibit 6). Also, Exhibit 11 shows an MA budget amount for January, 2011 to be \$1077.33, yet the budget for January, 2011 included net income of \$1,094.00. (Exhibit 4.) The Department does not satisfactorily explain its conflicting figures, nor does it

otherwise justify the budgeted net income figure. Based upon the foregoing analysis, it is determined that the Department did not properly calculate Claimant's MA spend-down amount.

Claimant also questioned why he was not given credit toward his deductible for the amount of \$1,100.00, which he listed on his MA application. (Exhibit 5.) However, Claimant admits that he did not verify the amount as required by BEM 545, p. 6. Claimant claims that his caseworker was rude and did not assist him in understanding that he was required to provide verification. However, this Administrative Law Judge has no jurisdiction in such matters as complaints as to the professionalism of Department personnel. Based on the foregoing policy, it is determined that the Department was correct in not applying Claimant's non-verified medical expenses toward the spend-down or deductible amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct in its determination of Claimant's FAP benefits, correct in its decision to not apply Claimant's non-verified medical expenses toward the deductible or spend-down amount and it is, therefore, ORDERED that said decisions are AFFIRMED. It is further decided that the Department was not correct in its calculation of Claimant's medical spend-down amount and its decision is, therefore, REVERSED. It is further ORDERED that the Department shall recalculate Claimant's spend-down amount for the periods beginning November 1, 2010, December 1, 2010 and January 1, 2011.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 4, 2011

Date Mailed: February 7, 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.

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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.

SCB/pf

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