

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.: 2011-15746
Issue No.: 2019, 3002
Case No.: [REDACTED]
Hearing Date: February 23, 2011
DHS County: Wayne (82-49)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. Claimant appeared and testified. [REDACTED], and [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS calculated Claimant's Food Assistance Program (FAP) and Medical Assistance (MA or Medicaid) benefits correctly?

FINDINGS OF FACT

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

1. Claimant receives \$525 monthly Retirement, Survivors and Disability Insurance (RSDI) benefits from the U.S. Social Security Administration.
2. On August 7, 2009, DHS granted FAP and MA benefits to Claimant.
3. On [REDACTED] Claimant began receiving Unemployment Insurance (UI) benefits from the State of Michigan Unemployment Insurance Agency (UIA). Claimant's current UI benefit amount is \$167 per week.
4. In about December 2010, DHS discovered that it failed to consider Claimant's unearned UI income in the eligibility calculations for his FAP and MA benefits.

5. On December 31, 2010, DHS issued a Notice of Case Action, DHS Form 1605, reducing Claimant's FAP benefits from \$89 to \$16 per month and increasing his MA Patient Pay Amount (spend-down) from zero (\$0.00) to \$886 per month. Both changes were to begin February 1, 2011.
6. On January 5, 2011, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by federal regulations in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented in CFR Title 42. DHS administers the MA program pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS policies are found in BAM, BEM and RFT. *Id.*

The administrative manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

The policy DHS cites in the Hearing Summary DHS prepared for this Administrative Hearing is BEM 544, "MA Needs – Group 2." I have reviewed this Item, which sets forth the structure of the MA Group 2 Spend-down (G2S) program. I find and determine that DHS acted in accordance with the requirements of BEM 544, and I turn next to see if the calculations were performed correctly.

I have reviewed DHS calculations for both the FAP and MA programs, and I conclude and determine that DHS used the proper income numbers, deductions and formulas, and did arrive at the correct FAP and MA benefit levels in Claimant's case. I find that DHS acted correctly in this case and DHS is AFFIRMED. I find and conclude that it is not necessary for DHS to take any further action in this case at the present.

DECISION AND ORDER

Based on the findings of fact and conclusions of law above, I find and determine that DHS is AFFIRMED in this matter. IT IS ORDERED that DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 2, 2011

Date Mailed: March 3, 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.

JL/pf

cc:

