

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a telephone conference hearing was held on [REDACTED]. The Claimant and his wife, Christine, were present and testified.

**ISSUE**

1. Did the Department properly determine Claimant's Food Assistance Program (FAP) eligibility?
2. Did the Department properly close Claimant's Medical Assistance benefit?

**FINDINGS OF FACT**

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

1. The Claimant was receiving FAP benefit. (Hearing summary).
2. On [REDACTED], the Department sent the Claimant a Redetermination packet for his MA. It had a due date of [REDACTED]. (Dept. Exhibit 1, pg 24).
3. The Department never received the MA Redetermination packet.
4. On [REDACTED], the Department received the Claimant's Semi-Annual Contact for FAP as required. (Dept. Exhibit 1, pg 1).
5. The Claimant reported SSD and long term disability insurance as income for himself and rental property and employment for his wife. (Dept. Exhibit 1, pg 1).

6. The Claimant was sent a Verification Checklist requesting documentation regarding income. (Dept. Exhibit 1, pg 2).
7. The Claimant submitted earning statements for his wife and a rental agreement reflecting rental income. (Dept. Exhibit 1, pgs 3-6).
8. The Claimant received [REDACTED] monthly, his daughter, [REDACTED] received [REDACTED] monthly, and his son, Kendrick received [REDACTED] monthly. (Dept. Exhibit 1, pgs 15-23).
9. The Claimant also received [REDACTED] monthly long term disability. (Dept. Exhibit 1, pg 9).
10. The Department recalculated the Claimant's FAP budget. (Dept. Exhibit 1, pgs 7, 8, and 29).
11. The Claimant's MA was closed for failure to submit required documentation and his FAP case was closed for excess income as well as failure to provide verification of long term disability income. (Hearing summary).
12. On [REDACTED] the Department received the Claimant's Request for Hearing.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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.

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 (DHS or department) 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), Reference Table Manual (RFT), State Emergency Relief Manual (ERM) and the Bridges Reference Manual (BRM).

Department policy states:

### **BEM 213 DEPARTMENT POLICY FAP Only**

Categorically eligible groups automatically meet **asset**, gross and 100% net **income** limits for food assistance. Categorical eligibility applies to groups, **not** individuals. Bridges determines group composition prior to determining categorical eligibility.

### **DEFINITION**

FAP groups are categorically eligible based on enhanced authorization for Domestic Violence Prevention Services. Although applicants/recipients are authorized for this service, **only** households with gross income at or below 200% of the poverty level receive additional authorizations.

### **APPLICATION PROCESSING**

The categorically eligible group is certified in accordance with all of the requirements for any other FAP group.

### **Verification**

If questionable, verify that the group:

- Meets all of the group composition requirements of BEM 212.
- Includes all persons who purchase and prepare food together in one FAP group, **and**
- Includes **no** persons who have been FAP **disqualified** for IPV, non-cooperation with child support, trafficking, parole and probation violations, fugitive felons and employment related activity.

If categorically eligible, do **not** verify for FAP purposes:

- Assets. See BEM 400,
- That the group's income is within gross and 100% net income limits.
- Social Security numbers.
- Sponsored alien information.
- Residency.

## **ISSUING BENEFITS**

Bridges will compute net income for all categorically eligible groups.

One and two member categorical FAP groups that exceed the gross and/or 100% net income limit, but whose gross income is at or below 200% of the poverty level are automatically eligible for a \$16 benefit amount.

Three or more member categorical FAP groups that exceed the gross and/or 100% net income limit, but whose gross income is at or below 200% of the poverty level may be eligible for benefits as low as \$2 as determined by the Food Assistance Issuance Tables in the Reference Tables Manual (RFT), item 260.

## **BEM 550 DEPARTMENT POLICY**

This item applies **only** to **FAP**. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits.

**SDV GROUP** An SDV FAP group is one which has an SDV member.

**Senior** A person at least 60 years old.

**Disabled** A person who receives one of the following:

- A federal, state or local public disability retirement pension **and** the disability is considered permanent under the Social Security Act.

## **BEM 505 DEPARTMENT POLICY**

### **DEFINITIONS All TOA**

**Income** Income means a benefit or payment received by an individual which is measured in money. It includes money an individual owns even if not paid directly such as income paid to a representative.

**Countable Income** Countable income is the amount remaining after applying policy in this and other income-related manual items. This is the amount used to determine eligibility and benefit level. **Earned Income** Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Some rental income is considered earned; see BEM 504, Income from Rental/Room and Board. **Unearned Income** Unearned income is all income that is not earned. **Gross Income** Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives. (BEM 500).

### **BEM 503 RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS) All Types of Assistance**

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. Bridges counts the gross benefit amount as unearned income.

## **BEM 554 DEPARTMENT POLICY**

This item applies **only** to FAP.

Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

- For groups **with** one or more SDV member, Bridges uses the following; see BEM 550:
  - Dependent care expense.
  - Excess shelter.

- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed [REDACTED]

### **BEM 105 DEPARTMENT POLICY MA Only**

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

### **SSI-RELATED AND FIP-RELATED**

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI related. 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. 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.

### **BEM 166 DEPARTMENT POLICY MA Only**

This is an SSI-related Group 2 MA category. Consider eligibility under this category only when eligibility does **not** exist under BEM 155 through 164, 170 or 171. Consider Medicare Savings Program eligibility (BEM 165) in addition to Group 2 MA.

MA is available to a person who is aged (65 or older), blind or disabled. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to BEM 546 to determine the post-eligibility patient-pay amount.

## NONFINANCIAL ELIGIBILITY FACTORS

1. The person must not be eligible for MA under BEM 155 through 164, 170 or 171, but may be eligible for a Medicare Savings Program under BEM 165.
2. The person must be aged, blind or disabled (BEM 240, Age, or BEM 260, MA Disability/Blindness). The MA eligibility factors in the following items must be met.
  - BEM 220, Residence.
  - BEM 221, Identity.
  - BEM 223, Social Security Numbers.
  - BEM 225, Citizenship/Alien Status.
  - BEM 255, Child Support.
  - BEM 256, Spousal/Parental Support.
  - BEM 257, Third Party Resource Liability.
  - BEM 265, Institutional Status.
  - BEM 270, Pursuit of Benefits.

## FINANCIAL ELIGIBILITY FACTORS

**Groups** Use fiscal and asset group policies for SSI-related groups in BEM 211.

**Assets** Countable assets **cannot** exceed the asset limit in BEM 400. Countable assets are determined based on MA policies in BEM 400, 401 and 402.

**Divestment** Policy in BEM 405 applies.

### Income Eligibility

Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. Apply the MA policies in BEM 500, 530, 540 (for children) or 541 (for adults), and 544 to determine net income. If the net income exceeds Group 2 needs, MA eligibility is still possible per BEM 545.

**Note:** An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is

expected to result in case closure. The review includes consideration of all MA categories.

## **DEPARTMENT POLICY MA Only**

This item completes the Group 2 MA income eligibility process. Income eligibility exists for the calendar month tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit II), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

## **MONTHS WITH EXCESS INCOME**

Income eligibility exists for all or part of the month tested when the **medical group's** (defined in BEM 544, **EXHIBIT I**) allowable medical expenses (BEM 545, EXHIBIT I) equal or exceed the fiscal group's excess income.

Department policy defines FAP groups as two different groups. One group is called the categorically eligible. This is defined as a group that has one or more people as disabled. BEM 550 defines disabled as an individual who receive federal, state or local public disability retirement pension **and** the disability is considered permanent under the Social Security Act. In this case, the Claimant receives RSDI income. This is a federal public disability retirement pension. Based on the SOLQ provided by the Department, the Claimant has a disability onset date of October 9, 2008. Therefore, the Claimant is defined as categorically eligible. Because the Claimant's group is categorically eligible for FAP, Department policy permits additional expenses to offset income while determining the FAP budget. It appears from this case that the Department did not use the proper category in determining the allowable expenses for the Claimant. BEM 554 would allow the Claimant to present out of pocket medical expenses as a deductible.

The Claimant does not appear to have been given an opportunity to present such expenses. In determining the Claimant's income eligibility, the Department used the net income limit of [REDACTED]. Based on the issuance table (RFT 260), this income limit is for non-categorically eligible claimants. The Claimant in this case is categorically eligible. The Department incorrectly applied the income limits. The Claimant is entitled to include out of pocket medical expenses as a deduction. For these reasons, it appears that the Department did not properly calculate the Claimant's FAP benefit.

The Claimant is also disputing the Department's determination of his MA redetermination. In compliance with Department policy, the Department sent the Claimant an annual redetermination packet for his MA eligibility. The Redetermination packet was due on [REDACTED]. The Department never received the Redetermination packet. Because the Department did not receive the information necessary to verify on going eligibility for the MA benefits, the Department was required to close the MA case. The Claimant makes an unsubstantiated claim that he turned the information in December. However, the only record the Department has is of the FAP

information received on [REDACTED]. This was almost a month after the MA redetermination packet was due. It is found that the Department properly closed the MA case as the Claimant failed to turn in the required documentation necessary to verify on-going eligibility.

### **DECISION AND ORDER**

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department properly closed the Claimant's MA case. However, the Department incorrectly categorized the Claimant's FAP application. Accordingly, the Department's FAP action is reversed. The Department shall:

1. Permit the Claimant to provide proof of out of pocket medical expenses to be used as a deduction pursuant to BEM 554.
2. Reprocess the Claimant's January Semi-Annual Contact application after the Claimant has been given an opportunity to provide proof of out of pocket expenses in accordance with Department policy.
3. Issue any retroactive FAP benefits the Claimant is otherwise eligible to receive.

It is so ORDERED.

\_\_\_\_\_/s/\_\_\_\_\_  


Date Signed:  \_\_\_\_\_

Date Mailed:  \_\_\_\_\_

**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 date of the rehearing decision.

