

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

IN THE MATTER OF:



Reg. No: 201121838
Issue No: 3002; 2026
Case No: [REDACTED]
Hearing Date: May 19, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

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 May 19, 2011. The Claimant was present and testified.

ISSUE

1. Did the department properly determine claimant's Food Assistance Program (FAP) benefit?
2. Did the department properly determine claimant's Medical Assistance (MA) 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 and MA. (Hearing summary)
2. On February 16, 2011, a redetermination was completed.
3. The department recalculated the claimant's FAP and MA eligibility (Department Exhibit 1 pg 6-12).
4. The claimant was sent a Notice of Action indicating that the FAP allotment was reduced and that she was eligible for MA with a deductible. (Department Exhibit 1, Pgs. 1-5).
5. On February 22, 2011, 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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Bridges Reference Manual (BRM). Department Policy states:

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.

Use **only** available, countable income to determine eligibility. The BEM 500 series defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. **Always** calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. Document income budgeting on either a manually-calculated or an automated FAP worksheet.

BEM 505 DEPARTMENT POLICY

DEFINITIONS All TOA

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 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 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.

The department is required to count the claimant's total gross income in determining the claimant's eligibility for FAP benefits. In this case, the claimant receives \$853.00 in RSDI benefits and \$391 in RSDI as survivor benefits. BEM 503 defines RSDI as unearned income. This unearned income must be used in determining the claimant's eligibility for the FAP program. The department recalculated the FAP benefit based on the increase in income. The claimant's household had unearned income in the amount of \$1670.00. The Department determines a FAP group's net income by deducting certain standard deductions. The claimant's had a standard deduction of \$141.00. Department policy also permits the deduction of certain expenses. These expenses include shelter expenses. The claimant had an excess shelter deduction of \$391.00. After calculating the standard deductions, the claimant had a total net income properly calculated to be \$1138.00. The federal regulations provide standards for income and the amount of household benefits. In accordance with federal regulations, the department has prepared income and issuance tables which can be found at RFT 250 and 260. The issuance table provides that a group size of 2 with an income of \$1529.00 receives a FAP benefit in the amount of \$25.00. The department properly determined the claimant's FAP benefit based on the increase in income.

The claimant is also disputing the department's determination of her MA application. In compliance with department policy, the department determined if there was any MA category that the claimant would be eligible. It was determined that the claimant qualifies as a group 2 caretaker relative. This category has an income and asset requirement for eligibility. Therefore, the department is required to determine the claimant's monthly income. The claimant resides in Kent County. RFT 200 indicates that this county is Shelter group V. The protected income limit for a group size of 2 in shelter area V is \$516.00. RFT 240. The department indicated that the claimant has a deductible of \$853.00. Based on the information in the record, I have been unable to replicate these numbers. Therefore, the department has not shown that the MA deductible was properly calculated.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department correctly determined the Claimant's FAP benefits. However, the Department has not determined the MA benefits properly.

Accordingly, the Department's MA action is reversed. The Department shall:

1. Reprocess the Claimant's MA application in accordance with Department policy.

2. Issue any retroactive MA benefits the Claimant is otherwise eligible to receive.

It is so ORDERED.

/s/

Kandra Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 24, 2011

Date Mailed: May 24, 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 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.

KR/ar

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