

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:

[REDACTED]

[REDACTED]

[REDACTED]

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 received on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly determined Claimant's Food Assistance Program (FAP) benefits?
2. Whether the department properly determined Claimant's Child Care and Development (CDC) and Medical Assistance (MA) program?

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 receiving FAP and MA at all times pertinent to this hearing.
2. Claimant's group size is 4.
3. As of [REDACTED] [REDACTED] Claimant was receiving Unemployment Compensation Benefits in the amount of [REDACTED] a week and Retirement, Survivors and Disability Insurance (RSDI) in the amount of [REDACTED] a month. (Department Exhibits 8-10, 18-22).
4. The department mailed Claimant a Notice of Case Action on [REDACTED] 4, [REDACTED] informing her that CDC was denied due to excess income. (Department Exhibits 39-40).

5. The department mailed Claimant a Notice of Case Action on [REDACTED], informing Claimant that her FAP benefits were decreasing to [REDACTED] a month because her unearned income and shelter expenses had changed. (Department Exhibits 37-38, 44-46).
6. Claimant submitted a hearing request on [REDACTED] protesting the denial of MA for herself and children, the denial of CDC and the decrease in her FAP benefits. (Request for a 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 400.901-400.951. 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).

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

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) and the Bridges Reference Manual (BRM).

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). Michigan provides MA for eligible clients under two classifications: Group 1 and Group 2 MA. Claimant falls under the Group 1 SSI-related MA classification, which consists of clients whose eligibility results due to being aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. MCL 400.106; MSA 16.490(16), MCL 400.107; MSA 16.490(17) and BEM 105.

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.

In order to qualify for Group 2 MA, a medically needy client must have income which is equal to or less than the protective basic maintenance level. Agency policy sets forth a method for determining the protective basic maintenance level by considering: (1) The protected income level; (2) the amount diverted to dependents; (3) health insurance premiums; and (4) remedial services, if determining eligibility for clients in adult-care

homes. The protected income level is the set amount for non-medical needs such as shelter, food, and incidental expenses. In all other situations, other than those involving long-term care, the appropriate income level must be taken from RFT 240. BEM Item 544 and 42 CFR 435.811-435.814. If the client's income exceeds the protected income level, the excess amount (MA deductible) must be used to pay medical expenses before Group 2 coverage can begin.

An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA coverage. However, an MA group may become eligible for assistance under the deductible program. The deductible program 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 Item 545; 42 CFR 435.831.

Claimant is requesting a hearing regarding her Medicaid deductible. At the time this hearing request was submitted, no negative action had been taken by the department on Claimant's Medicaid benefits. A review of the Notice of Case Action dated [REDACTED] [REDACTED] only shows that her children are covered by the Other Healthy Kids MA program. Therefore, under MAC 400.903(1), Claimant does not have a right to a hearing on Medicaid because no negative action was taken and thus, this Administrative Law Judge has no jurisdiction in this matter.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All countable earned and unearned gross income available to the client must be considered in determining the client's eligibility for FAP benefits. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The department must count the gross benefit amount before any deductions, unless department policy states otherwise. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was

already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

Claimant was receiving monthly unearned income in the amount of [REDACTED] at the time relevant to this matter. Claimant was receiving weekly unemployment compensation benefits (UCB) of [REDACTED]. The department determined this amount by multiplying the [REDACTED] Claimant received in UCB by a 4.3 conversion factor in accordance with the applicable department policy. Claimant also received unearned income in the form of [REDACTED] in the amount of [REDACTED], which leaves an adjusted gross income [REDACTED]

The department determines a FAP group's net income by deducting certain allowable expenses. These expenses include dependent care expenses, child support expenses and shelter expenses. BEM 554. Respondent had only shelter expenses. An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the \$588.00 standard heat and utility deduction under the Low Income Home Energy Assistance Program, and deducting half of Claimant's adjusted gross income. Claimant's housing expense was [REDACTED] is added to the heat and utility standard for a total of [REDACTED] shelter amount. [REDACTED] Pursuant to departmental policy, [REDACTED] Claimant's adjusted gross income, must be deducted from her total shelter. [REDACTED] Since Claimant's total shelter expense of [REDACTED] is more than 50% of the adjusted gross income of her FAP group, Claimant had an excess shelter expense of [REDACTED]

The department was required to deduct the excess shelter expense of [REDACTED] from Claimant's adjusted gross income of [REDACTED] resulting in net income of [REDACTED]. [REDACTED] A client with a group size of four and a net income [REDACTED] is entitled to a FAP allotment [REDACTED] 260.

Claimant testified that the department used the incorrect income in determining her FAP benefits because her unemployment and RSDI benefits had decreased as a result of the [REDACTED] federal stimulus [REDACTED]. In support, Claimant submitted a payment history from the [REDACTED] dated [REDACTED] showing that she received a net amount of [REDACTED] negative case actions from the department dated [REDACTED], therefore, this change in unemployment benefits is irrelevant to this hearing as it occurred after the negative case action. Notably, the Notice of Case Action dated [REDACTED], notifying Claimant of her decrease in FAP benefits to [REDACTED] effective [REDACTED], informs Claimant that "because you were receiving Unemployment Compensation Benefits, we were allowing a deduction of the federal stimulus of [REDACTED] per week and not counting it towards your assistance benefits. Since the federal stimulus has ended, this may cause

a decrease in your benefits beginning [REDACTED].” Therefore, the decrease was in response to the federal stimulus ending as explained to Claimant in the Notice.

Claimant also submitted a letter from the [REDACTED] keeping [REDACTED] a month to apply toward her overpayment of [REDACTED] that she had received in the past. The letter informed Claimant that the [REDACTED] would only be withheld unless within [REDACTED] of the date of the letter she paid back the full amount or asked the Social Security Administration to review their finding that she still owed them [REDACTED]. The department submitted documentation it received from the Social Security Administration on [REDACTED]. Claimant received [REDACTED]. Because the department properly relied on data from the Social Security Administration from [REDACTED] which was over thirty days after the [REDACTED] letter Claimant received and the time Claimant had to appeal the withholding of [REDACTED] from her [REDACTED]. Claimant received [REDACTED] in [REDACTED] in [REDACTED] 1, and used the proper income amounts in determining Claimant’s FAP eligibility.

The Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Claimant testified that she applied for Child Development and Care and submitted a copy of a Child Care Family Preservation Need Verification she signed on [REDACTED] box and was dated either [REDACTED]. The department explained that Claimant had been previously denied [REDACTED] for excess income and the negative case actions from [REDACTED], that resulted in this hearing did not affect that CDC decision. The department explained that Claimant needed to reapply and it appeared that the department has not received this documentation. Therefore, Claimant is instructed to submit the application to the department so the department can determine whether Claimant is eligible to receive CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant’s FAP, MA and CDC eligibility.

2011-24712/VLA

The department's FAP, MA and CDC eligibility is AFFIRMED.

It is SO ORDERED.

/s/

[Redacted signature]

Date Signed: [Redacted]

Date Mailed: [Redacted]

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 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.

[Redacted text]