

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011 24955
Issue Nos: 2017, 3002
Case No: [REDACTED]
Hearing Date:
April 21, 2011
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted by the undersigned in Detroit, Michigan on April 21, 2011. The Claimant appeared and testified. [REDACTED] appeared as the Claimant's authorized representative and interpreter. [REDACTED], Assistance Payments Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly determined that the Claimant was ineligible for the Medicare Savings Program.

Whether the Department properly budgeted the amount of the Claimant's FAP monthly benefits.

FINDINGS OF FACT

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

1. The Claimant and his spouse were ongoing recipients of Medicaid and currently receive \$16 in Food Assistance (FAP) benefits. Exhibit 1
2. The Claimant receives RSDI income of \$ [REDACTED] per month. The Claimant's spouse receives [REDACTED] per month in RSDI. The total monthly income received by the claimant's group is [REDACTED], Exhibits 2 and 3.
3. The Department used [REDACTED] as the unearned income amount when calculating the Claimant's FAP benefits instead of [REDACTED].
4. The Claimant's FAP group consists of 2 members and is a SDV group. Exhibit 1
5. The Claimant pays a condo association fee of [REDACTED] and the [REDACTED] utility expense was also included in the Claimant's FAP budget. Exhibit 5
6. The Claimant testified that he also pays on average [REDACTED] per month on a home equity loan.
7. The Department did not include the home equity loan amount when it computed the Claimant's FAP shelter expense, as it could not determine from the documents submitted by the Claimant that the loan was a home equity loan. Exhibit 5
8. The Claimant and his spouse both have Medicare Part A coverage and their countable unearned income is [REDACTED]. The income limit R for a group of two members of the Medicare Savings program is [REDACTED] to [REDACTED]. RFT 242. Exhibits 2 and 3
9. The Department agreed at the hearing that it incorrectly closed the Claimant's Medical Savings program benefits and agreed to reinstate the

Claimant 's case retroactive to the date of closure of December 1, 2010 and issue a supplement, if any, to the Claimant for benefits his group was otherwise entitled to receive.

10. The Claimant agreed that with regards to the Medical Savings program and the Department's agreement to reinstate these benefits that he no longer wished to proceed with that issue.
11. The Claimant requested a hearing on February 10, 2011, protesting the amount of the FAP benefits received and the denial of the Medicare Savings Program benefits.

CONCLUSIONS OF LAW

FOOD ASSISTANCE

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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

The Department is required to determine earned and unearned income received by a FAP group when budgeting for FAP benefits. In this case, the Claimant and his spouse only received unearned income from RSDI. Department policy contained in BEM 503 requires that the gross income amount be determined. In this case, the gross

income amount, based upon the evidence provided at the hearing, was that the total unearned income for the Claimant's FAP group was [REDACTED]. The FAP budget was prepared and used an unearned income figure of [REDACTED] which could not be verified by the Department and which was not confirmed by the SOLQ reports for the Claimant and his spouse and, therefore, is incorrect. Based upon this error, the FAP budget, as calculated, is incorrect and must be recalculated by the Department.

MEDICARE SAVINGS PROGRAM

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 (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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference (RFT).

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case, the Department has agreed to reopen and reinstate the claimant's Medicare Savings Program case retroactive to the date of closure, December

1, 2010 and issue a supplement for Medicare savings benefits the Claimant and his spouse were otherwise entitled to receive.

As a result of this agreement, the Claimant indicated he no longer wished to proceed with the hearing. Since the Claimant and the Department have come to an agreement, it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly, it is ORDERED:

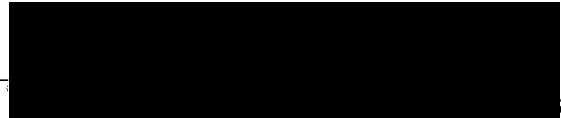
1. The Department shall reopen and reinstate the claimant's Medicare Savings Program case retroactive to December 1, 2010, the date of closure for both the Claimant and his spouse.
2. The Department shall issue a supplement for Medicare Savings Program benefits the Claimant and his spouse were otherwise entitled to receive.

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department erred in the calculation of the FAP budget, and its determination in that regard is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall recompute the Claimant's FAP budget using the correct unearned income amount of [REDACTED] and issue a supplement, if

applicable, for FAP benefits the Claimant was otherwise entitled to receive retroactive to November 1, 2010.



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

Date Signed: 05/18/11

Date Mailed: 05/20/11

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.

LMF/dj

cc:



Macomb County DHS (Dist #20) / DHS-1843



Administrative Hearings