

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

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-28532
Issue No: 2001, 3002,
2026

Case No: [REDACTED]
Hearing Date:
May 11, 2011
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 from Detroit, Michigan on May 11, 2011. The Claimant and his wife, [REDACTED] appeared and testified. Valarie Foley, Supervisor and L. Johnson, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits effective 3/1/10.

Whether the Department properly computed the Medical Assistance deductible amount for Jeffrey, Christine and Ian Manning?

Whether the Department correctly determined the appropriate Medicare Savings Program that the Claimant was eligible for based upon the income received by the Claimant and his spouse.

Whether the Department properly denied the Claimant's application for the Adult Medical Program (AMP).

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 is an ongoing recipient of Food Assistance and also Medical Assistance subject to a medical spend down (deductible).

2. The Claimant currently receives \$50 in Food Assistance per month.
3. The Claimant receives RSDI income in the amount of \$920 per month. Exhibit 14
4. The Claimant's spouse [REDACTED] and son [REDACTED] each receives RSDI in the amount of \$198. The claimant's total unearned income is \$1,316. Exhibit 14
5. The Department based its computation of earned income on 2 pay stubs [REDACTED] [REDACTED] provided in the amount of \$ \$509.07 and \$615. The checks were biweekly checks.
6. The Department included \$1208 in earned income when calculating the Claimant's FAP budget. This determination is correct. ($\$ 509.07 + \$615 = \$1124 \div 2 = \$562 \times 2.15 = \$1208$).
7. The Department included mortgage expense when computing the FAP budget in the amount of \$1062 and granted a utility allowance \$588. Exhibit 7.
8. The Claimant's FAP group consists of 3 members and is an SDV group because the Claimant is disabled and receives RSDI.
9. The Department originally opened two cases for the Claimant and his wife even though they lived together. The Department combined the family into one group under [REDACTED] name in February 2011.
10. The Department denied the Claimant for the Adult Medical Program because the program was closed for new enrollments.
11. As a result of the Claimant, his spouse and child being combined into one group, the Claimant's spouse's earnings were included and caused the Claimant's eligibility for the Medicaid Savings Program to change. The added income exceeded income eligibility for QMB payment of the Medicare premium. Based upon changed income, the Department determined that the Claimant is now eligible for ALMB.
12. The Claimant and his spouse's current medical deductible is \$1207. Exhibit 3
13. The claimant's son's medical deductible is \$1811. Exhibit 4
14. The Claimant requested a hearing on March 28, 2011, requesting that the family's medical assistance and food assistance benefits be reviewed due to changes in their FAP benefit amount and the individual deductible amounts. The Claimant also requested that the Department continue [REDACTED] FAP

benefits of \$470, the level of FAP benefits she received prior to the Department's closure of her FAP case.

CONCLUSIONS OF LAW

A. 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).

Department Policy defines household income to include earned and unearned income. The gross income amount is counted.

The Claimant's FAP group's unearned income of \$1316 used in the Department's calculation of the Claimant's FAP budget is correct as it is the sum of groups combined RSDI income.

The Claimant's wife's gross biweekly earnings are \$1124. The biweekly checks \$507 and \$615 are added together and divided by 2 to get the average bi weekly amount and then multiplied by 2.15 to get the gross earned monthly income. ($\$509.07 + \$615 = \$1124 \div 2 = \$562 \times 2.15 = \$1208$) The Department correctly determined the Claimant's gross earned income to be \$1208.00. BEM 505, P. 6 and 7. This income plus the Claimant's group's unearned income of income of \$1316 when totaled equals \$2524 and is the total gross monthly income.

Only 80% of earned income is counted in determining FAP benefits. $\$1208 - \$242 = \$966$. BEM 550. A standard deduction of \$141.00 is deducted from the gross income of FAP recipients in determining FAP grants. RFT 255. Deductions for excess shelter are also made. BEM 554. Medical expenses over \$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). BEM 554, P. 1.

In order to calculate the excess shelter deduction one must determine the adjusted gross income. In this case, the adjusted gross income is \$2141. Adjusted gross income is the sum of 80% of the earned income ($\$1208 \times .80 = \966) plus the unearned income ($\$966 + \$1316 = \$2282$) minus the Standard deduction of \$141 for a group of three members ($\$2282 - \$141 = \$2141$).

The Claimant's mortgage is \$1062 and a standard utility allowance of \$588 totals \$1650 which sum is the total shelter expenses. To determine the excess shelter deduction the total shelter expense minus $\frac{1}{2}$ of the adjusted gross income, yields an excess shelter

deduction of \$580. ($\$1650 - \$1070 = \580). The excess shelter deduction of \$556 as calculated by the Department is incorrect. BEM 554, RFT 255 Exhibit 2

Based on the foregoing, the Department must recalculate the Claimant's FAP budget and adjust the Claimant's FAP benefits accordingly. The undersigned finds that the Department incorrectly calculated the Claimant's excess shelter expense thus affecting the Claimant's FAP benefits and its determination in that regard is REVERSED.

It is also be noted that in light of the fact that the Department correctly calculated the total income amounts for the FAP budget, to continue to award ██████████ FAP benefits in the amount of \$471 the level prior to her case closure, would likely result in a significant overissuance of FAP benefits and raise the possibility of a recoupment of FAP benefits. Thus the Department's failure to continue FAP benefits at their previous level is not an error which requires reversal.

B. MEDICAL DEDUCTIBLE

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 Program Reference Manual (PRM) and Reference Tables (RFT).

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. BEM 105. The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. BEM 105 Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. BEM 105 To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. BEM 105

FIP- and SSI-related Group 2 eligibility is possible even when net income exceeds the income limit because incurred medical expenses are considered. BEM 105 Eligibility is determined on a calendar month basis. BEM 105 MA income eligibility exists for the calendar month tested when there is no excess income or allowable medical expenses that equal or exceed the excess income. BEM 545 The fiscal group's monthly excess income is called a deductible amount. BEM 545 Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM545 In determining budgetable income for group 2 FIP-related and Healthy Kids MA benefits, BEM 536 is utilized.

In this case, the Claimant received \$920 in unearned income from RSDI benefits. The Claimant has 2 dependents (spouse and child), therefore the Claimant's share of his prorated income was \$187.00. ($\$920.00/4.9$; BEM 536) This prorated income is then multiplied by 3.9 for the Claimant's share of the Claimant's income. This amount

(\$729.00) is considered the Claimant's net income for purposes of calculating the MA deductible.

In this case, the Claimant's spouse received \$1160.00 in earnings and received a work expense deduction of \$90 for net earnings of \$1070. The net earnings of \$1070 plus \$198 in unearned income result in total net income of \$1268. The Claimant's spouse has 2 dependents (spouse and child) therefore the Claimant's share of her prorated income was \$258.00 ($\$1268.00/4.9$); BEM 536. This prorated income is then multiplied by 3.9 for the spouse's share of the spouse's income. This amount (\$1006.00) is considered the net income for purposes of calculating the MA deductible.

The net income of both the Claimant and the Claimant's spouse and equals \$1735. ($\$1006 + \$729 = \1735). The income limit of \$500.00 is subtracted from the total net income resulting in the deductible amount of \$1235.00. Ultimately, the Department established it acted in accordance with Department policy when it calculated the Claimant's MA budget but the discrepancy of the Department's calculation of a deductible of \$1207 and the undersigned's calculation cannot be explained and therefore the Department's MA determination is REVERSED.

In determining the deductible spend down amount for the Claimant's son the Department also followed the requirements of BEM 536. The three person Group's net income is determined as follows. The child's income of \$198 is added to the parent's net income \$1006 () plus \$729 () plus one share of each parents prorated income \$258 () \$187 () which sum equals, \$2378. The eligibility protected income limit is found in RFI 240 and is \$532 for a group of three persons. The income limit of \$532 is then deducted from the total group net income and yields a deductible of \$1846. The Department's determined the deductible amount to be \$1811 which is supported by the budget it produced, however, the prorated income used for the Claimant's spouse was \$251 instead of \$258 and thus is incorrect. Exhibits 10 and 4. Based upon the foregoing the Department's determination of the deductible amount for the Claimant's son is incorrect and is REVERSED.

MEDICARE SAVINGS PROGRAM

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. BEM 105 Medicaid is also known as Medical Assistance ("MA"). BEM 105. The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. BEM 105 The Medicare Savings Programs are SSI-related MA Categories. BEM 165 The three Medicare Savings Programs are Qualified Medicare Beneficiaries (also known as full-coverage QMB); Specified Low-Income Medicare Beneficiaries (also referred to as limited coverage QMB); and Q1 Additional Low-Income Medicare Beneficiaries (also known as ALMB or Q1). BEM 165

Income is the major determiner of which category an individual falls under. BEM 165 For QMB, net income cannot exceed 100% of poverty. BEM 165 All eligibility factors

must be met in the calendar month being tested. BEM 165 QMB pays for Medicare premiums, co-insurances, and deductibles. BEM 165 SSI recipients, as opposed to RSDI recipients, receiving MA, and who are entitled to Medicare Part A, are considered QMB eligible without a separate QMB determination. BEM 165. A Medicare Savings Program determination is made for clients entitled to Medicare Part A who are under the Medicare Savings Programs (only); the Group 2 MA (FIP-related and SSI-related); Extended Care; Healthy Kids; or the Transitional Medicaid ("TMA")-Plus benefit programs. QMB coverage begins the calendar month after the month during which an eligibility determination is made. BEM 165 QMB is not available for past months or the processing month. BEM 165 Countable RSDI income is used for the month being tested. BEM 165

In May 2011, the full-coverage QMB income eligibility limit for a group size of 2 was \$1,215.00 and \$903.00 for a group size of 1. The ALMB eligibility limit for a group size of 2 persons was \$1640.

In this case the Department determined that the Claimant was eligible for the ALMB (Additional Low Income Medicare Beneficiaries) program when the Claimant's spouse's case was closed and she and her son were added to the Claimant's case. Previously, the Claimant had been eligible for the QMB (Qualified Medicare Beneficiaries) but when his spouse's earned income and his unearned income were included in his budget the Claimant was no longer eligible for QMB as the groups countable income of \$1488 exceeded the \$1215 limit established by RFT 242. The countable income limit for ALMB is \$1640 and thus the Claimant passed the income limit and the change was made. A review of the budget's for both QMB and ALMB reveals that the unearned income total of \$1118 as determined by the Department is correct, and the earned income is also correct \$1124 and the earned income exclusion was correctly determined. Exhibits 11 and 12. Thus based on the calculations and the budgets presented and prepared by the Department, the Department's determination that the Claimant is eligible for ALMB is correct and is AFFIRMED.

ADULT MEDICAL PROGRAM

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or Department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Bridges Eligibility Manual (PEM) and the Reference Manual (PRM).

Claimants must meet all eligibility requirements to receive AMP benefits. BEM 640. In this case no eligibility requirements were analyzed as the AMP program was closed to new applicants when the Claimant applied. Thus the Department's denial of the application is correct and is AFFIRMED.

DECISION AND ORDER

FAP

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department incorrectly calculated the Claimant's Food Assistance (FAP) benefits and its determination of the \$50 FAP amount is REVERSED.

The Department's failure to continue FAP benefits at their previous level of \$471, as requested by [REDACTED] as result of her request for hearing dated March 28, 2011, is not an error which requires reversal and therefore the Department's actions are AFFIRMED.

Accordingly, it is ORDERED:

1. The Department shall recalculate the Claimant's FAP benefits retroactive to March 1, 2011 and issue a FAP supplement to the Claimant for any FAP benefits the Claimant is otherwise entitled to receive in accordance with Department policy.

MEDICAL DEDUCTIBLE

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department incorrectly calculated the Claimant's and the Claimant's spouse's Medical Deductible, and its determination of the deductible amount is REVERSED.

Accordingly, it is ORDERED

1. The Department shall recalculate the deductible amount in accordance with this decision.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department incorrectly calculated the Claimant's child's deductible incorrectly and its determination is REVERSED.

Accordingly, it is ORDERED:

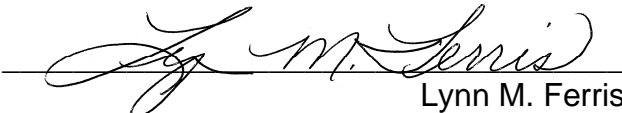
1. The Department shall recalculate the Claimant's child's deductible amount and shall correct the mother's prorated income used to calculate the deductible in accordance with this decision.

MEDICARE SAVINGS PROGRAM

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department correctly determined that the Claimant was eligible for ALMB and its determination is AFFIRMED.

ADULT MEDICAL PROGRAM

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct when it determined that the Claimant's application for Medical Assistance was denied due to the AMP program being closed. Its Determination is AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/16/11

Date Mailed: 06/20/11

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:

