

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-29733

Issue No: 2026; 3002

[REDACTED]
Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 March 31, 2011. After due notice, a telephone hearing was held on May 18, 2011. Claimant personally appeared and testified.

ISSUE

1. Did the department properly determine Claimant's Family Assistance Program (FAP) eligibility?
2. Did the department properly determine Claimant's deductible for Medical Assistance (MA)?

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 applicable to this hearing.
2. Claimant's deductible for MA for the month of January 2011 was [REDACTED]. (Department Exhibit 118).
3. Claimant submitted medical bills on January 20, 2011 to meet her medical deductible. The medical bills were entered and a new FAP budget was automatically run resulting in a decrease in FAP beginning March 1, 2011. (Hearing Summary).
4. On January 25, 2011, the department mailed Claimant a Notice of Case Action informing her that beginning March 1, 2011, her FAP benefits would decrease to [REDACTED] a month. (Department Exhibits 3-5).

5. Claimant submitted a hearing request on March 31, 2011, protesting the decrease in her FAP benefits and the amount of her MA deductible. (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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM).

Michigan provides Medical Assistance for eligible clients under 2 general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because of her status as a caretaker relative, which consists of Claimant's eligibility results from a state designated certain types of individuals as medically needy. BEM, Item 105. In order to qualify for Group 2 MA, a medically needy client must have income as equal to, or less than the basic protected monthly income level. The department policy sets forth a method for determining the protected level by considering:

- (1) the protected income level,
- (2) the amount diverted to dependents,
- (3) health insurance or premiums, and
- (4) remedial services in determining the eligibility for claimant in adult care home.

When the client's income exceeds the protected income level the excess amount must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a spend-down. Policy requires the department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for a numeration or profit. Unearned income is any income that is not earned. The amount of income counted may be more than the amount the person actually received because it is the amount before deductions are taken, including the

deductions for taxes and garnishments. The amount before any deductions are taken is called the gross amount. BEM 500.

The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's gross income was [REDACTED]. Federal Regulations at 42 CFR [REDACTED] provides standards for the determination of the Medical Assistance monthly protected income levels. Table 240-1 indicates that Claimant's monthly protected income level for a group of 1 person is [REDACTED], which would have left Claimant with [REDACTED] monthly excess income. The documentation provided by the department supports the MA deductible. Therefore, the department properly determined Claimant's MA deductible.

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 Program Reference Manual (PRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. 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 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.

In this case, Claimant's group received a total monthly income of [REDACTED], which was reduced by a standard deduction of [REDACTED], which left an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

A claimant with a group size of 2 and a monthly net income of [REDACTED] is entitled to \$68.00 per month in FAP benefits. RFT 260. The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department acted in accordance with policy in reducing Claimant's FAP benefits.

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 eligibility and Medicaid deductible.

Accordingly, the department's FAP and MA eligibility is AFFIRMED

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/25/11

Date Mailed: 5/25/11

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 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.

VLA/ds

[REDACTED]