

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20113159
Issue No: 2014; 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 29, 2010
Washtenaw 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. After due notice, a telephone hearing was held on November 29, 2010. Claimant personally appeared and testified.

ISSUES

1. Did the department properly deny Claimant's request for Family Assistance Program (FAP) benefits due to excess income?
2. Did the department properly determine Claimant had a 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 applied for the Food Assistance Program and Medical Assistance program on March 19, 2010.
2. Claimant's group size is 5. The monthly net income limit for a group size of 5 is \$2,794.00.
3. Claimant's deductible for MA for the month of March was \$2,245.00.
4. A new determination was determined when Claimant's wife was terminated from one of her employers, and the deductibles were changed to \$1,892.00 and \$1,670.00.

5. On April 30, 2010, Claimant filed a request for a hearing to contest the department's denial of FAP and the deductibles for MA.

CONCLUSIONS OF LAW

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 (PRM).

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 his 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, Item 500, p. 1. The department, in the instant case, calculated Claimant's income based upon his receipt of \$4310.00 in gross earned income in the month of March 2010.

The Administrative Law Judge has reviewed the record and the exhibits and finds that the fiscal group's gross income was \$4,310.00. Federal Regulations at 42 CFR 435.831 provides standards for the determination of the Medical Assistance monthly protected income levels. Table 240-1 indicates that the claimant's monthly protected income level for a group of 5 people is \$689.00, which would have left Claimant with \$3,621.00 monthly excess income. The department calculated Claimant's deductible for MA was \$2,245.00. The documentation provided by the department does not support

the MA deductible. The FIP Related MA net income printout provided by the department in support of the MA deductible shows Claimant has a deductible of 0. Therefore, the department failed to properly determine 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.

Claimant was receiving monthly earned income in the amount of \$4,310.00 at the time relevant to this matter. A claimant with a group size of five has a maximum gross income limit of \$2,794.00. RFT 250. Because Claimant's gross income of \$4,310.00 exceeded the allowable 130% gross income limit of \$2,794.00, Claimant was not entitled to FAP benefits for the time period in question.

In this case, this Administrative Law Judge has carefully reviewed the documentation provided by the department and finds there is clear and convincing evidence to support the department's denial of FAP benefits due to Claimant's excess gross income.

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. The department did not properly show that Claimant had an MA deductible.

The department's FAP eligibility is AFFIRMED and the department's MA decision is REVERSED. The department shall redetermine Claimant's MA benefits.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 20, 2010

Date Mailed: December 20, 2010

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.

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