

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: 2011-4113
Issue No: 2026, 3002

[REDACTED] [REDACTED]
Hearing Date: December 8, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 December 8, 2010. The claimant appeared and provided testimony, along with her husband, Donald Schweim.

ISSUES

1. Did the department properly close the claimants' Food Assistance Program (FAP) due to excess income?
2. Did the department properly compute the claimants Medical Assistance (MA) deductible case?

FINDINGS OF FACT

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

1. The claimants were mailed a Notice of Case Action (DHS-1605) on October 19, 2010. The notice indicated the claimants' FAP case would close effective October 1, 2010 due to excess income and that Mr. Schweim would have a deductible of [REDACTED] and that claimants' son, SS, would have a deductible of [REDACTED]
2. The claimants submitted a hearing request on October 28, 2010.

CONCLUSIONS OF LAW

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).

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).

Department policy states:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. BEM, Item 500, p. 29.

CHILD SUPPORT

Definitions

All Programs

Child support is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Medical, dental, child care and educational expenses may also be covered.

Child support is income to the child for whom the support is paid.

Court-ordered child support may be either certified or direct. BEM, Item 500.

FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. BEM, Item 554, p. 1.

- . Groups **with** one or more SDV member:
 - .. dependent care expense up to the maximum in RFT 255; and
 - .. excess shelter, and
 - .. court-ordered child support and arrearages paid to non-household members, and
 - .. medical expenses for the SDV member(s) that exceed \$35 BEM, Item 554, p. 1.

Complete either manually-calculated or LOA2 budget to document expenses every time an expense change is reported. BEM, Item 554, p. 1.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. BEM, Item 554, p. 9.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. BEM, Item 554, p. 11.

MA GROUP 2 INCOME ELIGIBILITY

Deductible

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred.

Active Deductible

Open an MA case **without ongoing Group 2 MA coverage** on CIMS as long as:

- . The fiscal group has excess income, **and**
- . At least one fiscal group member meets all other Group 2 MA eligibility factors.

Such cases are called active deductible cases. Periods of MA coverage are added on CIMS each time the group meets it deductible.

Deductible Period

Each calendar month is a separate spend-down period.

Deductible Amount

The fiscal group's monthly excess income is called a deductible amount. BEM 545, pp. 8-9.

Meeting a Deductible

Meeting a deductible means reporting and verifying allowable medical expenses (defined in "**EXHIBIT I**") that

equal or exceed the deductible amount for the calendar month tested. BEM, Item 545, p. 9.

The group must report expenses by the last day of the third month following the month for which it wants MA coverage. BAM 130 explains verification and timeliness standards. BEM, Item 545. p. 9.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM 500. RFT 260 lists the income limits for a FAP group to be eligible to receive benefits. For a group size of six, the monthly net income can not exceed [REDACTED]. Mr. Schweim began receiving RSDI in the amount of [REDACTED] and SS began receiving RSDI in the amount of [REDACTED] in February, 2010. When this income was added into the FAP budget, along with the child support that Mrs. [REDACTED] receives for AP, this caused the group to have a net monthly income of [REDACTED], which is excess income for FAP benefits.

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). 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.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the "protected income level" as set forth in the policy contained in the Program Reference Table (PRT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, a 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 545; 42 CFR 435.831.

The claimants dispute the inclusion of their income into their child's MA budget. Department policy indicates that a child's MA fiscal group is the child and the child's parents. BEM 211. The budgetable income for each fiscal group member is computed into the child's MA budget. BEM 536. To determine the child's budgetable income, the department follows the steps listed in BEM 536. The income figures for each source of income were reviewed with the claimants. The claimants testified that the department was using the correct amount of income for each source. Thus, once the steps are followed in BEM 536, the child's monthly deductible is [REDACTED], which was accurately computed by the department.

The notice that was mailed to the claimants indicates that [REDACTED] will have a MA deductible of [REDACTED] beginning December 1, 2010. In reviewing the MA budget for Mr. Schweim, it appears that the department is using a fiscal group of one. However, BEM 211 defines the adult's fiscal group to include the adult and the adult's spouse. The claimants testified that they were married in January, 2010 and the department representative testified that they did receive a copy of the marriage certificate (although it is not clear when it was received by the department). Thus, it would appear that Mr. Schweim's MA budget does not include all of the required fiscal group members (i.e. his spouse). Therefore, the department shall review the MA budget to determine if the claimant's spouse should have been included in the fiscal group prior to December 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department properly closed the claimants' Food Assistance Program (FAP) due to excess income.
2. The department properly computed the child's MA deductible, but may not have computed [REDACTED] deductible.

Accordingly, the department is UPHELD, in part and REVERSED, in part.

The department shall refigure [REDACTED] MA deductible, including both spouses in the MA fiscal group and issue the claimant's new notice of the deductible amount.

SO ORDERED.

