

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201141272
Issue No: 2014, 3015
Case No: [REDACTED]
Hearing Date: August 2, 2011
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

HEARING DECISION

This matter is before me 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 August 2, 2011. The Claimant and Department appeared and provided testimony.

ISSUE

Did the Department properly determine Claimant's Family Assistance Program (FAP) and Medicaid (MA) benefits?

FINDINGS OF FACT

I find as material fact, based upon the competent, material, and substantial evidence on the whole record:

1. Prior to June 1, 2011, the Department incorrectly budgeted Claimant's monthly Veterans Affairs (VA) benefits at [REDACTED] a month and correctly budgeted Claimant's Social Security Benefits (RSDI) at [REDACTED] a month. The Claimant receives a monthly VA benefit in the gross amount of [REDACTED] (Department Exhibit 1, 2, 3).
2. On or around June 1, 2011, the Department identified the budgeting error.
3. On or around June 30, 2011, the Department re-budgeted Claimant's FAP and MA eligibility.
4. On or around June 30, 2011, the Department sent the Claimant a Notice of Case Action. (Hearing Summary).
5. On June 30, 2011, the Claimant requested 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

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requests a hearing because his claim for assistance is denied. MAC R 400.903(1). The Department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The 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 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 Reference Tables Manual (RFT).

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. 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, the Department provided exhibits and the Claimant provided testimony indicating the Claimant received monthly VA benefits in the gross amount of [REDACTED] and monthly RSDI in the amount of [REDACTED]. The Department indicated there was an administrative error whereby the Department incorrectly used the monthly net amount of the VA benefits when determining the Claimants FAP and MA eligibility prior to June 1, 2011.

The Claimant argues the Department incorrectly used the gross amount of VA benefits and should have used the net amount as they always had done. However BEM 503 states "[b]ridges counts the gross amount of the pension or compensation as unearned income." BEM 503.

I extensively reviewed the Claimant's undisputed budget and determined that all the calculations were properly made at review, and all FAP issuance/budgeting rules were properly applied. As such the Department's reduction of Claimant's FAP allotment must be upheld.

The 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

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administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in BAM, the BEM and the 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. Medicaid is also known as Medical Assistance (MA).

The State of Michigan has set guidelines for income, which determine if a Medicaid 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. RFT 240 lists the Group 2 Medicaid protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medicaid 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 Reference Table (RFT). An individual or Medicaid group whose income is in excess of the monthly protected income level is ineligible to receive Medicaid. BEM 545.

The income limit for the Claimant as contained in the RFT is [REDACTED]. The Claimant's net income after the unearned income deduction for the time period in question is [REDACTED] (\$1014 - \$20). Therefore the Claimant is ineligible for MA benefits.

However, a Medicaid 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 Medicaid, 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 Medicaid 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.

In order to qualify for Group 2 MA coverage, a medically needy person like Claimant must have income which is equal to or less than the Protected Income Level. This dollar figure is a set amount for all non-medical needs, such as food, shelter and incidental expenses. If an individual'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 "deductible" case. In Claimant's case, the Protected Income Level is [REDACTED]. RFT 240. When the department subtracted this dollar amount (i.e., [REDACTED]) from Claimant's countable net income (i.e., [REDACTED]), a [REDACTED] deductible amount resulted.

The inclusion of Claimant's unearned income (VA and RSDI benefits) into her MA budget is required by policy. BEM 500. Unfortunately for Claimant, the imposition of a deductible restriction is inevitable in this case. Additionally, I reviewed the Department's

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MA budgeting processes and finds all calculations were properly made. Consequently, the Department's actions must be upheld, because they are in complete compliance with the Department's policies, and with the governing laws and regulations on which those policies are based.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law that the Department acted in accordance with policy in determining Claimant's FAP and MA eligibility.

The Department's actions are **Affirmed**.

/s/

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 2, 2011

Date Mailed: August 3, 2011

NOTICE: The law provides that within 60 days from the mailing date of the above hearing Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

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