

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.: 2011-4766
Issue No.: 2026/3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 13, 2010
Oakland County DHS (02)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 a hearing. After due notice, a telephone hearing was held on December 13, 2010. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits dated 7/23/10 due to Claimant's alleged failure to verify all of her employment income.
2. Whether DHS properly calculated Claimant's Medical Assistance (MA) benefits to be Medicaid subject to a deductible.

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 FAP benefits on 7/23/10.
2. It is not known whether Claimant applied for MA benefits on 7/23/10 or received MA benefits from a prior application.
3. At the time of Claimant's FAP benefit application, Claimant was employed as a psychic for [REDACTED].

4. Claimant's employment required her to work at two different locations for her employer, one located in [REDACTED] and one located in [REDACTED].
5. On 8/24/10, DHS mailed Claimant's employer a subpoena requesting a completed Verification of Employment specifically concerning Claimant's work history from the [REDACTED] location.
6. On 9/2/10, DHS received a document (Exhibit 1) listing Claimant's employment earnings for 7/2010; the document also stated that the "Employee address" was for [REDACTED].
7. Claimant verified \$707.50 in income for 7/2010.
8. Claimant's spouse verified receiving the following gross employment amounts: \$383.18 for 7/2/10 and \$376.74 for 7/16/10.
9. On 9/7/10, DHS denied Claimant's application for FAP benefits due to Claimant's failure to sufficiently verify her employment income from the [REDACTED] location.
10. On an unspecified date, DHS calculated Claimant to be eligible for Medicaid subject to an unspecified deductible amount which Claimant describes as "large".
11. On 10/27/10, Claimant requested a hearing disputing the DHS determinations concerning her FAP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 Reference Tables Manual (RFT).

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110 at 1. Before processing an application for FAP benefits, DHS may require a client to verify information within their application. Verification is usually required at application. BAM 130 at 1. DHS must give clients at least ten days to submit verifications. *Id.* After the date passes for submission of verifications, DHS may send a

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negative action notice if the time period given has elapsed and the client has not made a reasonable effort to provide the information. BAM 130 at 5.

In the present case, DHS requested verification of Claimant's employment income. Countable income must be verified at application for FAP benefits. BEM 500 at 9. Employment income is countable income. BEM 501 at 5. It is found that DHS appropriately requested verification of Claimant's employment income.

The issue in the present case specifically is whether Claimant verified all of her employment income. Claimant works as a psychic for [REDACTED]. It was not disputed that Claimant performs her employment at two different employer locations, one in [REDACTED] and one in [REDACTED].

On 9/2/10, DHS received a document that listed pay dates ranging from 7/1/10-7/30/10 listing gross payments to Claimant for each of the listed pay dates. The document also indicated an "Employee address" citing only Claimant's employer's [REDACTED] location. Claimant advised DHS prior to the FAP denial that the document may only have referred to the [REDACTED] location, but the pay dates and pay amounts included payments from both of her work locations. DHS did not take Claimant at her word and denied Claimant's application for FAP benefits due to the alleged failure by Claimant to verify her income she received from her employer's [REDACTED] location.

Strangely, DHS considered Claimant's submitted income verifications to be complete for purposes of evaluating Claimant's eligibility for MA benefits, but insufficient to determine Claimant's eligibility for FAP benefits. The undersigned knows of no DHS policy that would justify this discrepancy. The only logical explanation for the difference is that DHS mistakenly failed to deny Claimant's MA benefits or failed to evaluate Claimant's FAP benefits. Though no certain conclusion can be drawn from this discrepancy, the undersigned cannot help but find that it is evidence which tends to show that DHS improperly denied Claimant's application for FAP benefits since a determination for MA benefits was made.

The DHS Hearing Summary alleged that Claimant only informed DHS of one of her work locations. If this were true, it would be some evidence which would affect Claimant's credibility which would tend to cast doubt on Claimant's assertion that the document verifying Claimant's 7/2010 employment income listed income from only one of Claimant's work locations. However, DHS concedes that Claimant reported to DHS that she had multiple work locations. The undersigned fails to understand how Claimant only informed DHS of one employment location when DHS learned of both locations from Claimant.

DHS also cited their unsuccessful attempts to subpoena employment information from Claimant's employer as a basis to deny Claimant's FAP benefits. However, Claimant cannot be held accountable for her employer's failure to cooperate with DHS.

The DHS contention that Claimant's submitted employment document only verifies employment from one of Claimant's work locations is rational. Looking only at this document, there is a reasonable basis to conclude that it does not encompass all of Claimant's employment income. The document only lists 13 pay dates from 7/2010. Claimant indicated that she worked up to 5 times per week though the document lists no more than three dates of payment within a calendar week. This might lead one to conclude that Claimant worked at a different location approximately two times per week. Claimant provided testimony that she worked fewer days in 7/2010 due to various personal requests for days off and was not working at a different employer location.

Though the listing of one of Claimant's work locations is some evidence that the document reflects only payments to Claimant while working at that address, it seems equally reasonable that the employer listed only one address because the form does not allow room to list multiple work locations. It would be equally reasonable to believe that Claimant's employer would not have discerned between Claimant's work locations in listing Claimant's pays since it was the same employer paying Claimant. Based on all of the evidence presented, the undersigned is inclined to give Claimant the benefit of the doubt that she submitted verification of her full income. Accordingly, DHS improperly denied Claimant's application for FAP benefits dated 7/23/10 due to Claimant's alleged failure to verify her income.

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

For purposes of evaluating whether DHS properly determined Claimant's MA benefits, the undersigned is at a severe disadvantage. DHS failed to address the issue of Claimant's MA benefits in the Hearing Summary and failed to submit any exhibits concerning the issuance of Claimant's MA benefits. In turn, the undersigned neglected to adequately develop the issue for a competent decision. Nevertheless, a decision must be made based on the limited evidence presented.

A recipient with excess income for ongoing Medicaid may still be eligible for Medicaid under the deductible program. Clients with a Medicaid deductible may receive 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 medical expenses to DHS that equal or exceed the deductible amount for the calendar month.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2.

In the present case, minimal evidence was submitted concerning the DHS determination regarding Claimant's MA benefits. DHS failed to submit any evidence concerning their determination. The undersigned failed to hold DHS accountable for their failure.

It is known that Claimant is receiving Medicaid subject to a deductible as Claimant requested a hearing because of a "large deductible". No evidence was submitted to indicate that Claimant was either: pregnant, aged over 65 years or disabled. Claimant's hearing request indicated that she is married and the caretaker of a child. Claimant's only basis for Medicaid would be as a caretaker of a minor child. The specific MA programs applicable caretakers would be Low Income Family (LIF) or Group 2 Caretaker (G2C).

Claimant's submitted documentation listed employment income for 7/2010 totaling \$707.50. This document seemed to omit Claimant's 7/29/10 income due to a faulty copying job. Other documents indicated that Claimant received \$53.50 on 7/29/10. This would bring Claimant's total income for 7/2010 to \$761.

The case file also included employment income for Claimant's apparent spouse, [REDACTED]. Pay stubs were submitted verifying his gross wages as \$383.18 for 7/2/10 and \$376.74 for 7/16/10. It is presumed that since no other stubs were submitted that Claimant's spouse is paid bi-weekly.

Claimant is entitled to certain deductions in calculating LIF eligibility. A \$90 standard work expense is deducted for each member with countable earnings. Claimant also receives an additional employment earning disregard. If a person's earning exceed \$600 and the person received Family Independence Program (FIP) or LIF benefits in one of the four months prior to the month being tested then a \$30 plus 1/3 of remaining earnings disregard is applied; for all other groups, a \$200 +20% disregard is applied to employment earnings. BAM 110 at 14 and 15. No evidence was presented indicating that Claimant or her spouse received LIF or FIP benefits in the four months prior to her

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application, thus, the \$200 + 20% disregard applies. Applying the disregards to Claimant's monthly earnings (\$761) results in an income of \$376 (dropping cents). Applying the same disregards to Claimant's spouse results in a monthly income of \$375 (dropping cents). The total monthly income is found to be \$751.

It should be noted that the LIF eligibility calculation also involves complicated "deeming" calculations which may increase Claimant's group income. However, it is known that Claimant's is not entitled to any other disregards.

The LIF net income limit for a group of three persons is \$519. Claimant's minimum net group income exceeds the income limits for LIF. It is found that DHS properly found that Claimant was not eligible for Medicaid through LIF.

Despite a finding that Claimant is not eligible for Medicaid through LIF, Claimant may still be eligible for Medicaid through G2C. BEM 536 describes the calculations for G2C eligibility.

The first step is to calculate the group's total monthly income. Claimant's employment income (\$761) is added to her spouse's monthly employment income (\$759) to determine total income. \$90 is deducted from each member with earnings. Thus, the total income for purposes of G2C eligibility is found to be \$1340.

Claimant would be entitled to an additional \$30 + 1/3 deduction if she received LIF or FIP in the prior four months to application. Again, no evidence was presented to indicate that Claimant is entitled to such a deduction.

The prorate divisor is determined by adding 2.9 to the number of dependents. A spouse and minor children are considered dependents for G2C eligibility. Thus, Claimant's prorate divisor is 4.9. Claimant's countable income (\$761-\$90) is then divided by the prorate divisor (4.9) to determine the adult's prorated share of income; that amount is found to be \$136 (dropping cents).

The adult's fiscal group's net income is then determined by adding: 2.9 shares of the adult's prorated share of income (\$136) plus 3.9 shares of the spouse's own income (found to be \$136 as well) plus one share of the adult's prorated income (\$136). That total amount is found to be \$1196.

The income limit for G2C eligibility is \$541. RFT 240. As Claimant's net income exceeds the income limit, Claimant is not eligible for Medicaid through G2C.

The amount that Claimant's total net income (\$1196) exceeds the income limit (\$541) is the amount of Claimant's deductible. It is found that Claimant appears to be entitled to

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Medicaid subject to a deductible of \$655. This finding appears to reflect the unknown DHS determination which Claimant described as a "large deductible".

Though the undersigned is not comfortable affirming a DHS deductible determination without knowing the specific deductible amount, the circumstances of this case require it. It is found that DHS properly calculated Claimant's MA benefits as Medicaid subject to a "large deductible".

The undersigned suspects that the DHS calculated deductible is not precisely the same as calculated by the undersigned. It is very possible that DHS relied on slightly different employment information to calculate the deductible or that the undersigned slightly misapplied the complicated budget calculations involved in G2C and LIF eligibility. Based on the relatively low income limits required for LIF and G2C Medicaid, the undersigned is fairly confident that Claimant is entitled to Medicaid subject to a monthly deductible. Claimant may always request future hearings concerning her future MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS appears to have properly calculated Claimant's eligibility for Medicaid as Medicaid subject to a large deductible. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FAP benefits. It is ordered that DHS reinstate and process Claimant's 7/23/10 application for FAP benefits based on the income verifications already provided by Claimant. The actions taken by DHS are PARTIALLY REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/21/2010

Date Mailed: 12/21/2010

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

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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 60 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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