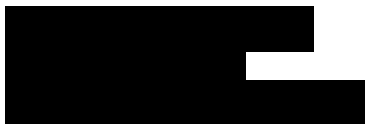


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:




Macomb County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 received on August 22, 2011. After due notice, a telephone hearing was held on October 11, 2011. The claimant personally appeared and provided testimony.

ISSUES

1. Did the Department of Human Services (Department) properly determine the claimant's eligibility for Medical Assistance (MA) as a deductible or spend down?
2. Did the Department properly determine the claimant's monthly Food Assistance Program (FAP) allotment amount?

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 claimant applied for FAP and MA on June 21, 2011. (Hearing Summary).
2. On July 7, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) which calculated Claimant's FAP allotment at  per month and MA deductible in the amount of  per month.
3. Claimant is an S/D/V.
4. At all relevant times, Claimant's countable unearned income from RSDI is  per month. (Department Exhibits 14-17).
5. On April 22, 2011, the claimant submitted a hearing request regarding her FAP allotment and her MA deductible. (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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. The department's policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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.

For purposes of FAP, the Department will allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554. Shelter expenses are allowed when billed. BEM 554. The expenses do not have to be paid to be allowed. BEM 554. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554.

The Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies for the MA programs are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The MA program is also referred to as Medicaid. BEM 105. 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. BEM 105. The Medicaid program is comprised of

several sub-programs or categories. One category is FIP recipients. BEM 105. Another category is SSI recipients. BEM 105. There are several other categories for persons not receiving FIP or SSI. BEM 105. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. BEM 105. Therefore, these categories are referred to as either FIP-related or SSI-related. BEM 105.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories. For MA only, a client and the client's community spouse have the right to request a hearing on an initial asset assessment only if an application has actually been filed for the client. BAM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. BEM 105.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for FIP-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. BEM 105.

A fiscal group is established for each person requesting MA (see BEM 211) and budgetable income is determined for each fiscal group member. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536.

For an MA recipient, a future month budget must be performed at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530. For an MA deductible client, a future month budget must be performed at redetermination and when a change occurs that may affect deductible status. BEM 530. Countable income is income remaining after applying MA policy in BEM 500. BEM 530.

In the instant matter, Claimant lives in Shelter Area (VI), which covers Macomb County. Claimant's group size is 1 (one). The total net income is [REDACTED]. According to RFT 240, the protected income limit (PIL) for a group size of 1 in Shelter Area VI is [REDACTED]. The PIL subtracted from the net income is the remaining deductible. [REDACTED]. BEM 536. The appropriate MA deductible amount is \$846.00. Accordingly, this Administrative Law Judge finds that the department properly determined Claimant's MA deductible amount.

With regard to the Department's calculation of Claimant's [REDACTED] FAP allotment, the Department representative who attended the hearing conceded that the Department erred. According to both the Claimant and the Department representative, the Claimant's shelter expenses were not properly calculated. The Department improperly

