

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201323558
Issue No: 2014, 3015
Case No: [REDACTED]
Hearing Date: February 13, 2013
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on January 10, 2013. After due notice, a telephone hearing was held on February 13, 2013. Claimant appeared and provided testimony and Claimant's husband, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an assistance payments supervisor with the Ottawa County DHS office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit and Medical Assistance (MA) eligibility?

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 was receiving FAP and MA benefits at all times pertinent to this hearing.
2. On October 31, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective December 1, 2012 her FAP benefits would be decreased to \$ [REDACTED] per month. The department further informed Claimant that effective December 1, 2012 Claimant and Claimant's husband had been approved for Group 2 Aged, Blind, Disabled Medicaid MA benefits and would be subject to a deductible in the amount of \$ [REDACTED] per person. Specifically, Claimant was advised that she and her husband would become eligible for MA benefits when their allowable expenses exceeded their deductible amounts. (Department Exhibits 14-19)

3. On January 28, 2013, the department received Claimant's hearing request protesting the department's determination of her FAP and MA eligibility. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. 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 requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), 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. BEM 505.

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 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 Bridges Reference Manual (BRM).

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

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.

Clients may qualify under more than one Medicaid 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.

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.

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 this case, Claimant's hearing request challenges the department's determination of Claimant's eligibility for FAP benefits of \$ [REDACTED] per month and Claimant's and Claimant's husband's eligibility for MA benefits with a deductible amount of \$ [REDACTED] for the benefit period beginning December 1, 2012.

At the February 13, 2013 hearing, the department's representative acknowledged that she could not explain the specific basis for the department's determination in the FAP-EDG Net Income Results (Department Exhibit 16a) and in the SSI Related Medicaid (Adults) – Income Budget Results (Department Exhibit 19a) that Claimant and Claimant's husband receive \$ [REDACTED] each month in unearned income – an amount that both Claimant and Claimant's husband dispute.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Absent the department's ability to explain the basis for the department's calculations in determining Claimant's eligibility for FAP and MA benefits for the benefit period beginning December 1, 2012, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP and MA eligibility for the benefit period beginning December 1, 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's FAP and MA eligibility for the benefit period effective December 1, 2012. Therefore, the department's determinations in this regard are **REVERSED** and the department shall immediately re-determine Claimant's eligibility for FAP and MA benefits effective December 1, 2012 and issue any supplemental checks if she is otherwise entitled to them.

It is **SO ORDERED**.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 14, 2013

Date Mailed: February 14, 2013

NOTICE: Michigan Administrative Hearings System (MAHS) 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 Order. MAHS 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 this Order to Circuit Court within 30 days of the receipt of the Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

201323558/SDS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

