

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

IN THE MATTER OF:



Reg. No.: 201413509
Issue No.: 2007, 3008, 6002
Case No.: [REDACTED]
Hearing Date: December 19, 2014
County: Muskegon

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 19, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Manager).

ISSUES

Did the Department properly determine Claimant's Food Assistance Program (FAP) monthly allotment?

Did the Department properly determine that Claimant was not eligible for Child Development and Care (CDC) benefits due to excess income?

Did the Department correctly determine Claimant's Medical Assistance (MA) or "Medicaid" deductible amount?

FINDINGS OF FACT

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

1. Claimant was active for MA.
2. On October 19, 2013, Claimant submitted an online application requesting FAP, CDC and cash assistance benefits.

3. On November 7, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which indicated the following: (1) Claimant's application for cash assistance is denied due to excess income; (2) Claimant's CDC application is denied, beginning October 20, 2013, due to excess income; (3) Claimant's MA Healthy Kids for Pregnant Women case is closed, effective December 1, 2013, because she is "not under 21, pregnant, or a caretaker of a minor child. . .not over 65 (aged), blind or disabled." and (4) Claimant's FAP application was approved for [REDACTED] per month for October 21, 2013 to October 31, 2013 and approved for [REDACTED] per month from November 1, 2013 through September 30, 2014. However, the notice further indicated that Claimant met all of the MA requirements except income. Thus, the Department found that Claimant was eligible for MA Group 2 Caretaker Relatives with a deductible amount of [REDACTED].
4. On November 15, 2013, Claimant requested a hearing to dispute the Department's decision to: (1) deny her CDC application due to excess income; (2) determine that she was only eligible for [REDACTED] per month in FAP benefits and (3) to find that, due to her income, Claimant was eligible for a MA deductible in the amount of [REDACTED].

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

Claimant has requested a hearing in this matter regarding the following three programs: Food Assistance Program, Medical Assistance (MA) or "Medicaid" program and the Child Development and Care (CDC) program. These programs, and the applicable policies, will be addressed separately below.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500 (7-1-2013). Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. BEM 500, p. 4.

The Department uses gross income when determining countable income. BEM 500, p. 4. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500, p. 4. The amount counted may be more than the client actually receives. BEM 500, p. 4.

The Department determines a group's benefits for a month based, in part, on a prospective income determination. BEM 505 (7-1-2013). A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505. The Department will obtain input from the client whenever possible to establish this best estimate amount. BEM 505. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM 505.

A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received) and prospected income amounts (not received but expected). BEM 505. Only countable income is included in the determination; see BEM 500. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505. The Department will determine budgetable income using countable, available income for the benefit month being processed. BEM 505.

The Department will use past income to prospect income for the future unless changes are expected. BEM 505. Specifically, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505. The Department should discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505. The Department worker should document which pay is being discarded and why. BEM 505.

When the income amount changes, the Department will adjust the amounts being budgeted for future pay periods. BEM 505. For earned income, if the rate of pay changes, but hours are expected to remain the same, the Department will use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods. BEM 505. If there is a change in expected hours, but no change in the rate of pay, the Department will use the expected hours times the rate of pay to determine the amount to budget per pay period. BEM 505. If payments in the new amount have been received and they are accurate reflections of the future income, the Department will use them in the budget for future months. BEM 505.

When the Department budgets the amount of FAP for a group, it first determines whether there is a senior¹, disabled person² or a veteran member of that group. BEM 550. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group³ must have

¹ A "senior" is a person at least 60 years old. BEM 550 p 1.

² A "disabled" person who receives one of the following: (1) a federal, state or local public disability retirement pension and the disability is considered permanent under the Social Security Act; (2) medicaid program which requires a disability determination by MRT or Social Security Administration; (3) Railroad Retirement and is eligible for Medicare or meets the Social Security disability criteria (4) a person who receives or has been certified and awaiting their initial payment for one of the following: (a) Social Security disability or blindness benefits; (b) Supplemental Security Income (SSI), based on disability or blindness, even if based on presumptive eligibility.

³ An SDV FAP group is one which has an SDV member. BEM 550 p 1.

income below the net income limits. BEM 550. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550.

The Department's computer system, known as "Bridges," uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with no SDV member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

With regard to the FAP issue, Claimant disputes the Department's determination as to the amount of her monthly FAP allotment at [REDACTED]. Specifically, Claimant disputes the Department's calculation of her monthly income by using a paycheck stub from a pay period where she received overtime. The Department caseworker who attended the hearing stated that she calculated Claimant's income properly. The Department worker then stated that the Department properly used Claimant's standard paycheck and calculated the average amount of her regular paycheck along with her overtime hours. Claimant also stated that she and her husband both have gas and other travel-related expenses that the Department failed to consider when it determined the total household income. The Department, on the other hand, contends that the travel expenses are not considered under policy.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The Administrative Law Judge reviewed the entire record in this matter. The Department properly determined Claimant's monthly gross income based on the paystubs contained in the record. Policy does not permit Claimant to use travel related expenses and gas to offset her income. (Neither Claimant nor her husband was self-employed.) These paystubs show that Claimant and her husband, at the time, were both employed and that the total countable household gross income [REDACTED] at the time which is reduced by a 20% earned income deduction of [REDACTED], a standard deduction of [REDACTED] and a dependent care deduction of [REDACTED], which leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550. Reference Table

(RFT) 250 determines the monthly income limits for FAP based on household group size. According to RFT 250, a FAP monthly net income limit for a group size of 4 is [REDACTED]. Here, the Food Assistance Issuance Tables determine that a total countable monthly income of [REDACTED] for a group size of 4 results in a [REDACTED] monthly FAP allotment per RFT 260 (11-1-2013). The Department correctly determined Claimant's monthly FAP amount at [REDACTED].

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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. BEM 545, p. 10 (7-1-2013). According to policy, the fiscal group's monthly excess income is called a deductible amount. BEM 545. Active Deductible cases will be opened on Bridges without ongoing Group 2 MA coverage as long as the fiscal group has excess income and at least one fiscal group member meets all other Group 2 MA eligibility factors. BEM 545.

For MA, the Department included a detailed set of calculations under BEM 536. Claimant did not dispute the Department's MA calculations. In this matter, the record shows that Claimant lives in Muskegon County, which is Shelter Area III. RFT 200. The MA monthly protected income levels are set forth in RFT 240. A household with a group size of 2 who lives in Shelter Area III has a monthly income limit of \$475.00. RFT 240. In the instant matter, Claimant's total countable monthly income of [REDACTED] minus the [REDACTED] monthly income limit results in a [REDACTED] deductible amount. The Department properly determined Claimant's MA deductible.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

For purposes of Claimant's CDC hearing request, the Department properly found that Claimant's total monthly household earned income was [REDACTED]. According to RFT 270 (10-1-2011), a group size of 4 with a monthly gross income of [REDACTED] exceeds the monthly gross income limit of \$2,367.00. Because Claimant's total gross monthly income exceeds the limit, Claimant is not income eligible for CDC benefits.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in

accordance with Department policy when it denied Claimant's application for CDC due to excess income and acted properly when it determined Claimant's monthly FAP and MA deductible amounts.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 20, 2013

Date Mailed: December 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing 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 Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201413509/CAP

If submitted by mail, the written request must be addressed as follows:

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

CAP/aca

cc:

