

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53610
Issue No.: 2015, 3002
Case No.: [REDACTED]
Hearing Date: July 17, 2013
County: Wayne DHS (17)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 17, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly determined Claimant's Medical Assistance (MA) eligibility.

The second issue is whether DHS properly prospected employment income in determining Claimant's Food Assistance Program (FAP) eligibility.

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 an ongoing MA and FAP benefit recipient.
2. Claimant's MA eligibility was through Transitional Medicaid Assistance (TMA).
3. Claimant was part of a three-person household.
4. Claimant received the following gross employment payments: \$378.20 on 5/3/13, \$395.30 on 5/10/13, \$380.80 on 5/17/13 and \$376.80 on 5/24/13.

5. On 6/6/13, DHS determined Claimant's FAP eligibility, effective 7/2013, in part, based on monthly employment income of \$1707.
6. On 6/6/13, DHS determined Claimant was eligible for Medicaid subject to a \$509/month deductible, effective 8/2013.
7. On 6/13/13, Claimant requested a hearing to dispute the FAP and MA benefit determinations.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP benefit determination. Claimant testified that she was unable to live on the amount of FAP benefits issued by DHS. Claimant's point is not relevant to a FAP benefit determination. Claimant is entitled to a hearing to determine whether her FAP eligibility determination was correctly calculated.

During the hearing, DHS presented all relevant FAP benefit budget factors. Factors not in dispute included: a household size of three, a \$500 rental obligation and a standard \$575 utility obligation. The only factor disputed by Claimant concerned employment income. It was established that Claimant received gross employment pays as cited above.

For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (10/2010), p. 4. DHS is to discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. *Id.*

It was not disputed that Claimant received weekly employment income. DHS could not state which of Claimant's pays were factored into the FAP benefit determination. Claimant testified that her 7/2013 pays were significantly lower than her 5/2013 pays, thereby implying that DHS should have factored the 7/2013 pays. It was not disputed that DHS did not have evidence of Claimant's 7/2013 pays as of 6/6/13, the date of determination. DHS could not factor pays which were not yet in existence.

The above-noted pays from 05/2013 appear to cover a 30 days period which would reasonably have been budgeted by DHS as of 6/6/13. Testimony was presented

suggesting that Claimant received unrepresentative bonuses in unspecified pays. Claimant did not allege that the 5/2013 pays were unrepresentative, other than claiming that they were higher than her 7/2013 pays. Claimant conceded that her typical weekly gross income was approximately \$382. The 5/2013 pays average less than \$383/week, remarkably close to Claimant's typical weekly gross income. Based on the presented evidence, it is found that Claimant's pays from 5/3/13-5/24/13 were representative and should have been used to prospect Claimant's income.

Multiplying Claimant's bi-weekly gross income by 4.3 results in a countable income of \$1645 (dropping cents). DHS determined Claimant's employment income to be \$1707. Based on the presented evidence, it is found that DHS improperly calculated Claimant's income in determining Claimant's FAP eligibility.

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). DHS 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).

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* 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. *Id.*

It was not disputed that Claimant was only potentially eligible for Medicaid through FIP-related programs. It was not disputed that Claimant received Medicaid through TMA. It was not disputed that Claimant's ongoing eligibility was reduced to Medicaid subject to a \$509/month deductible.

Families may receive TMA for up to 12 months when ineligibility for Low-Income-Family (LIF) relates to income from employment of a caretaker. BEM 111 (10/2012), p. 1. It was not disputed that the MA determination in dispute followed 12 months of TMA eligibility for Claimant. Thus, Claimant was not entitled to continue receiving Medicaid through TMA.

LIF is a FIP-related category. It was not definitively established that Claimant was ineligible for LIF. Claimant's LIF eligibility can be safely presumed based on a lack of recent Family Independence Program (FIP) eligibility (this can be established based on receipt of 12 months of TMA) and full-time employment income. The only likely applicable MA category left is Group 2 Caretaker (G2C). Income calculations for all Group 2 MA categories are located within BEM 536.

For MA benefits, DHS is to not budget income from an extra check. BEM 530 (10/2012), p. 2. Thus, for MA eligibility, DHS does not utilize a 4.3 multiplier for weekly employment income. Adding Claimant's four weekly gross employment pays results in a countable income of \$1531 (dropping cents). A \$90 disregard is applied to gross employment income, making Claimant's running countable income total \$1441 (dropping cents). The running countable income is divided by the sum of 2.9 and Claimant's number of dependents (2 minor children). Dividing \$1441 by 4.9 creates a prorated share of income of \$294. That number is multiplied by 2.9 to create the adult's share of the adult's own income of \$852 (dropping cents). DHS allows deductions for insurance premiums, remedial services and ongoing medical expenses; none of these expenses were alleged. The income limit for G2U eligibility is \$375. RFT 240 (7/2007), p. 1. It is found that DHS properly did not find Claimant eligible for Medicaid under the G2C program.

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 allowable medical expenses that equal or exceed the deductible amount for the calendar month.

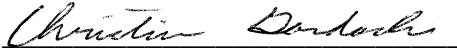
The amount that Claimant's total net income exceeds the income limit (\$375) for G2C is the amount of Claimant's deductible. It is found that Claimant's Medicaid deductible is \$477, a slightly lower deductible than calculated by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's eligibility for FAP and MA benefits. It is ordered that DHS:

- (1) redetermine Claimant's FAP and MA eligibility, effective 7/2013, subject to the finding that DHS is to prospect Claimant's employment income using the following gross pay amounts: \$378.20 on 5/3/13, \$395.30 on 5/10/13, \$380.80 on 5/17/13 and \$376.80 on 5/24/13; and
- (2) initiate a supplement of any FAP or MA benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/25/2013

Date Mailed: 7/25/2013

NOTICE: 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)

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.

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 error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
 - failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

