

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant,

Reg No: 2008-17512

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 1, 2009

Iosco County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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. After due notice, a telephone hearing was conducted from Detroit, Michigan on October 1, 2009. The Claimant appeared and testified. Marnie Webber, ES, appeared on behalf of the Department.

ISSUES

1. Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits based on Claimant living with her separated but legally married husband?
2. Whether the Department properly calculated the Claimant's MA deductible based on both Claimant's and her separated but legally married husband's income?

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 active FAP and MA recipient.

2. Claimant's case was transferred to Iosco County because the Claimant reported moving.
3. Claimant and the Department met on 4/21/08 to discuss Claimant's case. Claimant revealed that she had moved into the house of her husband from whom she is separated but still legally married.
4. As a result, the Department calculated FAP and MA benefits based on both Claimant and her husband's income. (Exhibit 1, pp. 27-28, 30-32).
5. Claimant's FAP benefits were reduced to \$10.00 per month effective 5/6/08.
6. Claimant's SSI based MA was converted to a deductible of \$1456.00 per month effective 5/6/08. (Exhibit 2).
7. The Department received Claimant's hearing request on April 28, 2008.
8. Claimant testified that she incurs monthly medical expenses in excess of the standard deduction.
9. The hearing record was left open to allow Claimant to provide additional documentation showing medical expenses incurred.
10. Additional documents from Claimant were received on 11/2/09 which showed the following prescription costs incurred by Claimant:
 - a. 6/1/09-6/30/09 = \$26.10
 - b. 9/1/09 – 9/30/09 = \$15.10

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

FAP benefits are paid based on an individual’s family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. Spouses who are legally married and live together must be in the same group. PEM 212, p. 1. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. PEM 212, p. 1.

In the subject case, the testimony and evidence shows that Claimant was living with her legal husband. Even though Claimant and her husband have been separated for a number of years and Claimant testified that they do not combine their finances, the regulations are clear. Since Claimant and her husband are still legally married and living together, then the husband must be included in the FAP and MA budgets. The Administrative Law Judge, therefore, finds that the Department properly calculated the FAP and MA benefits.

The federal regulations define household income to include RSDI benefits. 7 CFR 273.9(b). Medical expenses over \$35.00 are taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). PEM 554, p. 1. The expense does not have to be paid to be allowed, but it does have to be incurred. Id. at p. 6.

In the subject case, Claimant submitted evidence of incurred costs for medical expenses. However, most of the medical expense for the prescriptions was covered by insurance. A monthly prescription drug summary dated 6/1/09 – 6/30/09 shows that Claimant paid \$26.10 per month in prescriptions. For 9/1/09 – 9/30/09 Claimant paid \$15.10 in prescriptions. Claimant also provided notes from her doctors indicating that she would need additional treatment. However, there is nothing that shows how often she will be required to see a doctor or the expense of same. Since Claimant's evidence shows that she did not spend more than the standard deduction of \$35.00 for incurred medical expenses and the Department already included an additional \$96.00 for excess medical, the Administrative Law Judge finds that Department properly calculated FAP benefits.

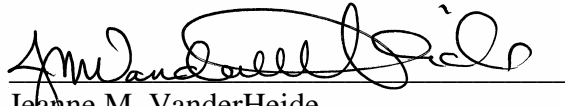
Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

It should be noted that Claimant can reapply for benefits based on a change in household membership at any time. Should Claimant no longer live with her legal husband or if they are no longer legally married, Claimant is entitled to reapply.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly reduced Claimant's FAP benefits and changed MA benefits to a deductible based on Claimant living with her legal husband.

Accordingly, the Department's FAP and MA eligibility determinations are AFFIRMED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/23/09

Date Mailed: 12/04/09

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 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JV/dj

cc:

