

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: 2009-19112
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 11, 2009
Oakland 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 June 11, 2009. The Claimant appeared and testified. Barbara Wojnaroski, FIS, and Judy Fineman, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits.

FINDINGS OF FACT

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

1. The Claimant was an active FAP and MA recipient.
2. Claimant FAP case was recertified in March of 2008.
3. On 1/26/09, the Department received notice of Claimant's RSDI increase.
(Exhibit 1, pp. 3-4).

4. Claimant lives alone and has a group size of one (1).
5. Claimant testified that she regularly incurs medical expenses for office visits and prescriptions in excess of \$35.00/month.
6. Claimant testified that she was only informed to provide verification for medical expenses if she had expenses in excess of her spend down amount of \$679.00/month.
7. The Claimant pays rent in the amount of \$459.00 per month. Claimant also is responsible for utilities.
8. On 3/18/09, the Department re-calculated the FAP budget based upon the increased RSDI which resulted in a reduction in the Claimant's FAP allotment (Exhibit 1, pp. 5-6) to \$20.00 per month.
9. The Department sent Claimant a negative action notice on 3/18/09. (Exhibit 1, p. 14).
10. In addition, Claimant's MA spend-down was increased from \$679.00 to \$744.00 per month.
11. Claimant testified that she understood the MA spend-down and was not contesting the spend-down amount change.
12. On March 30, 2009, the Department received the Claimant's Request for Hearing protesting the reduction of FAP benefits.
13. The Department recalculated Claimant's FAP budget following application of the Federal Stimulus increase resulting in \$44.00 per month being issued for 4/2009.
14. Claimant submitted verification for her monthly medical expenses by 4/13/09 and Claimant's FAP benefits have been adjusted accordingly.

CONCLUSIONS OF LAW

Claimant testified that she was satisfied with the calculation for her MA spend-down, so the MA is not being addressed in this opinion.

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”).

The federal regulations define household income to include RSDI benefits. 7 CFR 273.9(b). Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 23.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Medical expenses over \$35.00 are also 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.

At application and re-determination, the Department is required to estimate an SDV person’s medical expenses for the benefit period. The estimate is based on verified medical expenses, available information about the SDV member’s medical condition and health insurance; and changes that can be reasonably anticipated to occur during the benefit period. During the Benefit Period, changes are to be processed if they are voluntarily reported and verified during the benefit period. Any incurred current medical expense that is applied toward a Medicaid deductible is also an allowable FAP medical expense. PEM 554, pp. 6-7.

The client must obtain required verification, but the Department must assist if they need and request help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department is directed to use its best judgment. PAM 130, p. 3.

In the present case, the Claimant testified credibly that she was not informed about the possibility of using her medical expenses for calculation of her FAP benefits. It is apparent that Claimant was disabled and would, therefore, have likely incurred some medical expenses. Upon re-determination, the Department should have questioned Claimant about the amount of her medical expenses and applied Claimant's estimated medical expenses to the FAP budget when determining benefit amounts.

Based upon the foregoing facts and relevant law, it is found that the Department's food budget calculation is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's 3/18/09 FAP calculation, effective 4/1/09, is REVERSED.
2. The negative action of 3/18/09 shall be deleted.
3. The Department shall recalculate Claimant's FAP allotment from 4/1/09 forward including any medical expenses and the Department shall supplement the Claimant for any lost benefits (if any) she was otherwise entitled to receive.

/s/

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

2009-19112/JV

Date Signed: 06/18/09

Date Mailed: 06/22/09

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 60 days of the filing of the original request.

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.

JV/dj

cc:

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