

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: 2009-20510

Issue No: 2013; 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 3, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on June 3, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's application for Food Assistance Program (FAP) benefits and properly determine the claimant was only eligible for Transitional Medical Assistance (TMA) in April, 2009?

FINDINGS OF FACT

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

1. The claimant applied for FAP and MA assistance on March 4, 2009 (Department Exhibit #25 – 40).

2. The claimant reported during the personal interview on April 6, 2009, that she did not have any shelter expenses for March and April, 2009 and that she would provide May shelter expenses at a later time (Department Exhibit #40).

3. The claimant has a child support order to be paid to her, but no payments were made to the claimant for child support from December, 2008 through March, 2009. Thus, the department did not budget any child support income for the claimant (Department Exhibit #4, 11- 12)

4. The claimant receives Unemployment Compensation Benefits (UCB) in the amount of \$308.00 weekly (Department Exhibit #5 – 6).

5. The claimant's son, [REDACTED], receives SSI in the amount of \$674.00 monthly (Department Exhibit #21).

6. The department completed a FAP budget for the claimant that included the claimant's UCB income and her son's SSI as income. The claimant was not given any shelter expense as she indicated she didn't have any shelter expense. The claimant was given the heat/utility standard allowance. This resulted in excess income for FAP benefits (Department Exhibit #20 – 21).

7. The claimant's son, [REDACTED], remained eligible for SSI-related MA coverage.

8. The claimant's other son, [REDACTED], was eligible for Healthy Kids coverage (Department Exhibit #16).

9. The claimant was eligible for Transitional Medical Assistance benefits (TMA).

10. The claimant filed a hearing request on April 17, 2009.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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). 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

FAP INCOME BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM, Item 550, p. 1.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. PEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. PEM 500 defines countable income. PEM 505 defines available income and income change processing. This item describes income budgeting policy. PEM, Item 550, p. 1.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20%

earned income deduction. Every case is allowed the standard deduction shown in RFT 255. PEM, Item 550, p. 1.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

The claimant indicates that she believes she should be eligible for FAP benefits and MA assistance. The claimant has excess income for regular MA eligibility. However, the department representative testified that the claimant was eligible for Transitional Medical Assistance (TMA), which is a more beneficial category than a deductible or spend-down MA (which would be the only other program she could qualify for). TMA is a category of MA that allows a family to transition to self-sufficiency, so that if the family is no longer eligible for LIF MA (low-income family medical assistance), the family can still have MA coverage for a time period. PEM 111. The department representative testified that the claimant's monthly co-pay is \$50.00 for the TMA program. This is the most beneficial category of MA that the claimant is eligible for.

The claimant's children are both covered under different MA programs. The claimant's son, [REDACTED] is covered under SSI-related MA because he is an SSI recipient. The claimant's other son, [REDACTED], continues to be eligible for MA coverage through the Healthy Kids MA

program. Therefore, the department properly considered each category of MA for the claimant and her children and determined the most beneficial category for each of them.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$128 is allowed for each household. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. In this case, the claimant had excess income to receive any FAP benefits. It is noted that the claimant indicated she now has shelter expenses. This Administrative Law Judge did inform the claimant she should reapply for the Food Assistance Program and provide verification of the shelter expenses to the department to allow them to budget in the new rent expense, as this could change the FAP benefit amount.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimant had excess income to receive FAP benefits. The department properly denied the claimant's application for FAP

benefits and properly determined the claimant's and her childrens' eligibility for the various MA programs.

Therefore, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 15, 2009

Date Mailed: June 17, 2009

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.

SLK 

cc:

