

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: 2009-2096
Issue No: 2026, 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 3, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 February 3, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute claimant's Medicaid (MA) and Food Assistance Program (FAP) budgets in August, 2008, resulting in continuation of her MA spenddown case and termination of her FAP benefits due to excess income?

FINDINGS OF FACT

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

1. Claimant had an active MA spenddown and FAP case when the case came due for a yearly review in August, 2008. Claimant submitted a review application listing her son [REDACTED] as living in her home.

2. Claimant also submitted a letter from [REDACTED], dated August 11, 2008, offering her a position in this office starting September 8, 2008, at 30 hours per week. On August 25, 2008 department also received a Verification of Employment form from this business stating that the claimant will receive her first pay check on September 26, 2008, and will be working 30 hours per week at [REDACTED]. (Department's Exhibits 9, 10 and 11).

3. On August 22, 2008 department also received a faxed Verification of Employment form from [REDACTED] regarding the employment of claimant's son [REDACTED]. This form stated that Benard is expected to work 40 hours per week at [REDACTED] per hour and gave no indication that this job would end or be reduced in hours. (Department's Exhibit 13 and 14).

4. On August 27, 2008 department completed a FAP budget for the claimant counting her projected employment income, [REDACTED] projected employment income, claimant's [REDACTED], and [REDACTED]. This budget resulted in excess income for the FAP program. (Department's Exhibit 1 and 2).

5. Claimant's FAP benefits expired due to end of certification period on August 31, 2008, and could not be activated past this date due to excess income.

6. Department also computed an MA budget for the claimant counting her projected employment income and [REDACTED]. This budget resulted in a [REDACTED] spenddown.

7. Claimant requested a hearing on September 15, 2008.

CONCLUSIONS OF LAW

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).

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).

Claimant's MA spenddown was discussed with the claimant, who testified that her employment never started and that her MA budget was therefore re-computed by the department with approximately a [REDACTED] per month. Claimant stated several times that she did not understand what the spenddown was, and this Administrative Law Judge with the assistance of department's representative did her best to explain it to the claimant. Departmental policy explains MA spenddown/deductible as follows:

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA). PEM 105.

The State of Michigan has set guidelines for income, which determine if an MA group is eligible. Income eligibility exists for the calendar month tested when:

- . There is no excess income, **or**
- . Allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). PEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. PEM 105. Income eligibility exists when net income does **not** exceed the Group 2 needs in PEM 544. PEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. PRT 240 lists the Group 2 MA protected income levels based on shelter area and fiscal group size. PEM 544. An eligible Medical Assistance group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in the policy contained in the Program Reference Table (PRT). An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA. However, a MA group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for MA, 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 MA group must report expenses by the last day of the third month following the month it wants medical coverage. PEM 545; 42 CFR 435.831.

Department’s budgeting of claimant’s income for the spenddown in August, 2008 was correct based on reported and verified starting employment income and UCB she was receiving. When the claimant’s job did not start, department apparently re-computed claimant’s MA budget, resulting in considerable reduction in the spenddown/deductible amount. No error can be found in department’s computation of claimant’s MA budget in August, 2008.

Claimant’s FAP budget was reviewed with the claimant. Claimant does not dispute that she was to start a job, and that the information about the job provided to the department was

accurate (i.e. start date, hours expected to work and rate of pay). Claimant also does not dispute the amount of UCB she was to receive for September, 2008, or SSI budgeted for her son Brandon. Claimant has an issue with department budgeting her son Benard's income from Cedar Point as full time, as she claims that her son was starting college in September, 2008 and was not going to be able to work full time. This Administrative Law Judge cannot find an error in department's budgeting of Benard's Cedar Point income, as information provided by the employer to the department on August 22, 2008 states that he is expected to work 40 hours per week at \$7.25 per hour, and there is no indication that his hours were to be greatly reduced. Department would have no reason or obligation to doubt information received from the employer, something explained to the claimant repeatedly during the course of this hearing.

It is noted that hearing testimony establishes that the claimant re-applied for FAP benefits on September 17, 2008 and was approved for such benefits. Claimant's MA spenddown was also adjusted to reflect that she did not start working. Claimant's hearing issue therefore is reduced to complaining about 16 days of FAP non-receipt, from September 1st to September 17, 2008. As explained above, no error can be found in income used by the department to determine claimant's ongoing FAP eligibility at the end of August, 2008. This income information was provided directly from employers and there was no reason to doubt the accuracy of such information or to know that the claimant's job was not going to start after all.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed claimant's MA and FAP budgets in August, 2008, resulting in termination of claimant's FAP benefits and increase in her MA spenddown.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 10, 2009

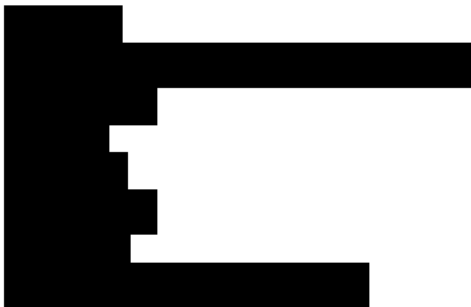
Date Mailed: February 12, 2009

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.

IR/om

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