

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.: 2009-27774

Issue No.: 2014/3015

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

August 6, 2009

Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 August 6, 2009. The Claimant appeared and testified. [REDACTED], FIS, and [REDACTED], FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Food Assistance ("FAP") and Medical Assistance (MA) 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. Claimant was an ongoing recipient of FAP and MA benefits in a household of 2 persons.
2. Claimant had obligations for shelter, utilities, and heat.

3. On May 7, 2009 claimant met with the department for a re-determination interview and provided information to the department regarding her recent marriage and subsequent change in household members, her temporary employment, and pregnancy.
4. On May 27, 2009 the department recalculated the MA and FAP budgets and determined that claimant is not entitled to FAP or MA benefits based on excess income. (Department Exhibits 1 pp. 2-4 and Department Exhibit 2 pp 4-5)
5. The department closed the claimant's MA benefits on May 27, 2009 and closed the FAP benefits on May 31, 2009.
6. Claimant requested a hearing on June 4, 2009 contesting the closure of FAP and MA benefits.

CONCLUSIONS OF LAW

Food Assistance (FAP)

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 wages and salaries of an employee. 7 CFR 273.9(b). Only 80% of the gross earned income is counted in determining FAP benefits. PEM 550. Stable income received weekly is multiplied by 4.3 and stable income received bi-weekly is multiplied by 2.15 to take into account fluctuations due to the number of

scheduled pays in a month. PEM 505. Under 7 CFR 273.9, as amended, \$135 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter expenses are also made. PEM 554. Under PEM 505, case closure is not required when ineligibility will exist for only one month for FAP because the conditions resulting in excess income are not expected to recur in the following month, and the group is currently active for FAP.

In the present case, department testified no income or employment verifications were requested from claimant, the figure used for claimants income was based on the information claimant provided. The department calculated the FAP budget with claimant earning \$16.50 per hour and working 30 hours per week the entire month. Department Exhibit 2 p.5. However, claimant testified she informed the department that the employment was only temporary. Claimant testified she worked from about April 13, 2009 to May 16, 2009. Accordingly, the department erred in computing claimant's income based on working a full month.

Additionally, the FAP case closure was not correct under the aforementioned policy on temporary ineligibility. Claimant had an active FAP case; her employment was temporary and was not expected to recur the following month.

Medical Assistance (MA)

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 (formerly known as the Family Independence Agency) 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).

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. PEM 105. Under PEM 545 Income eligibility exists for FIP related MA in the calendar month tested when there is no excess income, or allowable medical expenses equal or exceed the excess income.

In the present case, the FIP related MA budget includes a figure of \$662 for claimant's income. Department Exhibit 1 p.3. However, the department representative present at the hearing did not know how this figure was calculated from claimants reported work hours and wage. Accordingly, the claimant's budgeted income may not be correct.

Based upon the foregoing facts and relevant law, it is found that the department's FAP and MA determinations are REVERSED. The department testified the budgets were run using the income information claimant provided and that no verification of income, employment, or pregnancy was ever requested from claimant. The department ran the budgets on May 27, 2009 by which time claimant testified her temporary employment had ended. The figure used by the department for claimant's income in the FAP budget does not reflect the temporary nature of the job and the figure used for the MA budget does not appear to be based on the hours/wages claimant reported.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP and MA benefits.

Accordingly, the Department's FAP and MA eligibility determinations are REVERSED. Therefore it is ORDERED that the department re-determine claimant's eligibility for FAP and MA benefits retroactive to the closure date of May 27, 2009 and award benefits to claimant, if appropriate, in accordance with this Decision.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/11/09

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.

CL/jlg

cc:

