

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: 2009-29729
Issue No: 3014; 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 19, 2009
Kent 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 August 19, 2009. Claimant personally appeared and testified.

ISSUES

1. Did the department correctly determine that the claimant was not eligible for medical assistance, that being either Medicaid (MA) or Adult Medical Program (AMP)?
2. Did the department correctly compute the amount of Food Assistance Program (FAP) benefits that the claimant was entitled to receive?

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 applied for FAP, cash assistance and medical assistance on May 4, 2009.

2. Claimant reported living alone, receiving UCB, and having rent, utility and child support expenses.

3. Department determined that the claimant was not eligible for cash assistance in the form of State Disability Assistance because he was not disabled, and for Family Independence Program (FIP) because he has no minor eligible children living with him.

4. Department also determined that the claimant had excess income for Adult Medical Program. Department computed a FAP budget and determined that the claimant was eligible for \$23 worth of such benefits.

5. Claimant requested a hearing on July 7, 2009.

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 Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained 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).

In order for the claimant to be eligible for MA being that he is over 21 years of age and under 65 years of age and has no minor children living with him, he must be disabled. BEM 260. Claimant is not disabled and is collecting UCB, benefits he could not collect if he was unable to work. The only medical program available to a single adult such as the claimant is AMP. AMP income limit for the claimant is \$316 per month. RFT 236. Claimant's UCB income exceeds this limit, and department correctly determined that the claimant was therefore not eligible for AMP. It is noted that even if the claimant met AMP eligibility requirements and did not have excess income, an enrollment freeze was in effect at the time of his application and still is due to funding running out earlier in the year for the program. This fact would result in no AMP eligibility for the claimant also.

Claimant further states that he feels he should receive more FAP benefits because his children come over to visit and he has to feed them. Claimant does not dispute that his children spend more than half of their time residing with their mother. Departmental policy defines a "primary caretaker" as the person entitled to receive FAP benefits for children, and states:

Primary Caretaker

The **Primary Caretaker** is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. PEM, Item 212, p. 1.

Claimant cannot therefore receive FAP benefits as he is not the primary caretaker of his children.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant was not eligible for MA or AMP, and also correctly determined the amount of FAP benefits he was entitled to receive.

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: September 8, 2009

Date Mailed: September 8, 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.

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