

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: 2009-31804
Issue No: 2001, 2006, 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2009
Kent County DHS

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 hearing was held on September 29, 2009. The claimant appeared and testified. [REDACTED], claimant's mother and FAP group member, also appeared and testified. Christina Reigling, ES, and Kelly Hudson, FIM, appeared on behalf of the department.

ISSUES

1. Whether the department properly determined claimant's mother was not eligible for Adult Medical Program (AMP) benefits.
2. Whether the department properly determined claimant was no longer eligible for Medicaid (MA) benefits.
3. Whether the department properly determined claimant was no longer eligible for Food Assistance Program (FAP) benefits.

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 was an ongoing recipient of FAP benefits in a household of three persons, claimant, claimant's mother, and claimant's son.
2. Claimant and her son were ongoing recipients of MA benefits.
3. On June 12, 2009, claimant's mother filed a Hearing Request contesting the AMP, MA, and FAP determinations.

AMP

1. On May 11, 2009, claimant's mother filed an application for AMP benefits.
2. The department received verifications of employment and assets regarding claimant's mother. (Department Exhibit 2, pgs. 1-16)
3. Claimant's mother had earned income from her employment at [REDACTED]
4. On June 5, 2009, the Department denied the AMP application due to income in excess of the \$316 monthly limit.

MA

1. On October 25, 2008, claimant was considered to be noncooperative with the Office of Child Support. (Department Exhibit 1, pg. 22)
2. On June 3, 2009, the Bridges computer system recognized that claimant was under a sanction for noncooperation with the Office of Child Support and a Notice of Case Action was issued indicating that the claimant's MA benefits would close effective July 1, 2009. (June 3, 2009 Notice of Case Action attached to Hearing Request)
3. Claimant's son's Healthy Kids MA benefits remained open.

FAP

1. On June 3, 2009, the Bridges computer system recognized that claimant was under a sanction for noncompliance with the Office of Child Support and the system removed claimant from the FAP group.

2. The department re-calculated the FAP budget and determined that claimant's household was not eligible for FAP benefits because the gross income exceeded the limit for the group size.

3. The department issued a Notice of Case Action on June 3, 2009 indicating that the FAP benefits would close effective July 1, 2009 and that if claimant filed a hearing request by June 15, 2009 the assistance could be reinstated or continued at the former level. (June 3, 2009 Notice of Case Action and attached Hearing Request)

4. Claimant's mother filed the hearing request June 12, 2009 requesting that the FAP benefits continue at the same amount until the hearing is decided.

5. The department testified that the Bridges system closed the FAP benefits.

6. On August 20, 2009, the department was notified that claimant was considered to be cooperative with the office of Child Support. (Department Exhibit 3, pgs. 3 and 5)

CONCLUSIONS OF LAW

AMP

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 Adult Medical Program (AMP) is available to individuals who meet specific eligibility factors. Income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. PEM 640. The gross benefit amount of earned income is counted. PEM 500. For the AMP program, biweekly income is multiplied by 2 as an income from an extra check for a month is not budgeted. PEM 640. The monthly income limit for a group of one person is \$316. RFT 236.

In the present case, there is some disagreement as to the original AMP application date. The department received a May 11, 2009 application. However, claimant's mother testified that she filed an AMP application by the end of March but the caseworker told her she had not received it. Claimant's mother then re-filed for AMP benefits on May 11, 2009, and the department processed this application.

According to the aforementioned policy on budgeting, claimant's mother's monthly income exceeded the \$316 monthly limit. Claimant's mother received biweekly pay checks between April 24, 2009 and May 22, 2009 for \$507.83, \$503.50, and \$516.88. (Department Exhibit 2, pgs. 3-8) Claimant's mother further testified her monthly earnings were never below the \$316 monthly income limit.

Based upon the foregoing facts and relevant law, it is found that the department's AMP denial is AFFIRMED. Claimant's mother's income exceeded the \$316 monthly income limit for the program.

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 (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).

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/or case closure, depending on the program. PEM 255.

For MA benefits, failure to cooperate without good cause results in a disqualification. The person who failed to cooperate is not eligible for MA when the child for whom support/paternity action is required receives MA, and the person and child live together. PEM 255. Cooperation is assumed unless and until the department is notified of noncooperation by Office of Child Support (OCS). The noncooperation continues until the department is notified of cooperation by OCS or cooperation is no longer an eligibility factor. The support specialist for the Office of Child Support makes the cooperation determination. The disqualification ends when the department is notified by the Office of Child Support that the person has cooperated or support/paternity action is no longer a factor in the child's eligibility (e.g., child leaves the group). PEM 255.

In the present case, claimant and her son lived together and were receiving MA benefits. The department's Bridges computer system noted that claimant had a sanction from the Office of Child Support for noncooperation. The department obtained an October 2008 Noncooperation Notice from the Office of child support confirming the sanction. (Department Exhibit 1, pg. 22) Claimant was referred to the Office of Child Support to resolve the noncooperation and was considered to be cooperative as of August 20, 2009. (Department Exhibit 3, pgs. 3 and 5)

Based upon the foregoing facts and relevant law, it is found that the department's MA closure is AFFIRMED. The department properly closed the MA coverage for claimant on July 1, 2009, when claimant was under a sanction for noncooperation with the Office of Child Support. Claimant was found to be cooperative with the Office of Child Support as of August 20, 2009. The additional exhibits submitted by the department indicate that they may already be processing current MA benefits for claimant. (Department Exhibit 3, pgs. 7-8) Claimant may wish to reapply for MA if the department has not already reinstated MA benefits.

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").

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Failure to cooperate without good cause results in disqualification. Disqualification includes member removal, denial of program benefits, and/ or case closure, depending on the program. PEM 255.

For the FAP program, failure to cooperate without good cause results in disqualification of the person who failed to cooperate. Remove the person and his needs from the Food Assistance case for a minimum of one month. The noncooperating member is disqualified for

FAP until you are notified of cooperation by OCS or cooperation is no longer an eligibility factor. PEM 255.

In calculating the FAP budget to determine eligibility for the remaining group members, a pro rata share of the disqualified individuals income is included in the budget. PEM 550. The department prorates each source of income individually as follows:

- (1) Add the number of eligible FAP group members to the number of disqualified persons that live with the group.
- (2) Divide the disqualified/ineligible person's income by the number of persons in step 1.
- (3) Multiply the result in step 2 by the number of eligible group members.

PEM 550.

The federal regulations define household income to include the gross amount of both earned income. 7 CFR 273.9(b). Stable income received every two weeks is multiplied by 2.15 to take into account fluctuations due to the number of scheduled pays in a month. PEM 505. A non-categorically eligible, non Senior/Disabled/Veteran (SDV) FAP group must have income below the gross income limits. PEM 550 The monthly gross income limit for a non-categorically eligible, non-SDV household of two persons is \$1517. RFT 250.

In the present case, claimant was disqualified from receiving FAP benefits based on the determination of noncooperation with the Office of Child Support. Accordingly, the FAP budget was recalculated with a group size reduced to two persons and only a pro-rata share of claimant's income was included. The FAP group's income was determined to be in excess of the \$1,517 limit for a group size of two.

According to the aforementioned policy on income budgeting, claimant's household income was \$1,759.35. Claimant's mother received biweekly pay checks between April 24, 2009 and May 22, 2009 for \$507.83, \$503.50, and \$516.88. (Department Exhibit 2, pgs. 3-8)

These can be used to calculate an average pay of \$509.40. This average is then multiplied by 2.15 for standardization to a monthly income of \$1,095.21.

Claimant's income, as reported by the employer to the Work Number Service, was biweekly from working an average of 30 hours a pay period at \$7.49 per hour. (Department Exhibit 1, pg. 25) Thus claimant earned an average of \$449.40 every two weeks. This figure was then multiplied by 2.15 for standardization to a monthly income of \$996.21.

However, because claimant was a disqualified group member, only a pro rata share of her income is counted. Following steps 1-3 above: (1) the FAP group consisted of three total members, one disqualified and two eligible; (2) claimant's monthly income of \$996.21 divided by 3 equals \$332.07; (3) \$332.07 multiplied by 2, the number of eligible group members, equals \$664.14.

Claimant's mother's monthly income is added to the prorated amount of claimant's income resulting in the total household monthly income of \$1,759.35. This exceeds the FAP monthly income limit for a group of two eligible persons of \$1,517. The countable household income exceeded the monthly income limit for the program when claimant was a disqualified group member. Therefore the proposed closure of the FAP benefits effective July 1, 2009 was correct.

However, the Hearing Request did indicate claimant requested to continue receiving the same amount of FAP benefits pending the hearing outcome. Claimant's hearing request was filed prior to the June 15, 2009 deadline for the benefits to continue. Therefore, the case should not have closed July 1, 2009. The department was notified by the Office of Child Support on August 20, 2009 that claimant was considered to be cooperative. Accordingly, claimant would then be considered an eligible FAP group member as she had already been removed from the FAP group for the required minimum of one month.

Based upon the foregoing facts and relevant law, it is found that the department's July 1, 2009 FAP determination is PARTIALLY REVERSED. The additional exhibits submitted by the department indicate that they may already be re-processing FAP benefits retroactive to August 18, 2009. (Department Exhibit 3, pgs. 7-8) If they have not already done so, the department shall re-determine FAP eligibility retroactive to August 20, 2009, when claimant was found cooperative with the Office of Child Support.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

AMP

The department properly denied claimant's mother's AMP application for income in excess of the \$316 monthly limit. Accordingly, the AMP determination is AFFIRMED.

MA

The department properly closed the MA coverage for claimant on July 1, 2009, when claimant was under a sanction for noncooperation with the Office of Child Support. Accordingly, the MA determination is AFFIRMED.

FAP

The department properly proposed to close the FAP benefits effective July 1, 2009 due to excess income for the remaining eligible FAP group members. However, claimant requested that the FAP benefits remain open pending the hearing outcome and the department was notified that claimant was found to be cooperative with the Office of Child Support on August 20, 2009. Accordingly the FAP determination is PARTIALLY REVERSED.

Therefore, if the department has not already done so, it is ORDERED that the department re-instate the FAP case and re-determine eligibility retroactive to August 20, 2009, awarding benefits to claimant, if appropriate, in accordance with this decision.

/s/

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

Date Signed: October 8, 2009

Date Mailed: October 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 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/cv

cc:

