

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: 2009-7327
Issue No: 3002, 2015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 27, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 May 27, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUES

Did the Department properly compute the Claimant's Food Assistance Program (FAP) benefits effective September 2008? Did the Department properly find Claimant ineligible for Medical Assistance (MA) after her only child turned 18?

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 is a FAP benefits recipient for a group size of two. Claimant was an MA recipient until her only child, a daughter, turned 18 on [REDACTED].

- (2) Claimant's daughter was working at [REDACTED] store after turning 18. (Exhibit 3).
Consequently, the Department included the daughter's income in calculated the Claimant's FAP budget.
- (3) The Department sent Claimant an eligibility notice dated August 27, 2008 to inform her that her monthly FAP allotment would be \$162 effective September 2008.
- (4) Claimant's daughter did not live with her during the 2007/2008 school year because Claimant moved due to a foreclosure. Because her daughter wanted to finish high school in the school where she was enrolled before the foreclosure, she lived with a friend during the 2007/2008 school year.
- (5) Claimant disagreed with the fact that she was not eligible for MA benefits as a relative caretaker after her daughter turned 18. In addition, Claimant disagreed with the changes in her FAP benefit allotment after the Department learned that her daughter was not living with her.
- (6) Claimant's daughter turned 18 on [REDACTED] and had already graduated from high school prior to her birthday.
- (7) The Department received Claimant's hearing requests on December 11, 2008. (Exhibits 1 and 2).

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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.

3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation. (See “[LIVING SITUATIONS](#)” in this item. (PEM 212, p. 1)

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. (PEM 212, p. 1)

DEPARTMENT POLICY

MA Only

This is a FIP-related Group 2 MA category.

MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested. If the month being tested is an L/H month and eligibility exists, go to [PEM 546](#) to determine the post-eligibility patient-pay amount. (PEM 135, p. 1)

DEPENDENT CHILD DEFINED

A child is a dependent child when he meets all of the following conditions:

- The child is born.
- The child meets the **FIP** eligibility factors in the following items:
 - PEM 223, Social Security Numbers.
 - PEM 225, Citizenship/Alien Status.
 - PEM 227, Strikers.
 - PEM 270, Pursuit of Benefits.
- The child is a resident using **MA** policy in PEM 220.
- The child meets the following age or age and school attendance requirement:
 - He must be under age 18; **or**
 - He must be age 18 and a full-time student in a high school or in the equivalent level of vocational or technical training as defined in FIP policy in PEM 245. He must be expected to complete his educational or training program before age 19. (PEM 135, p. 2 and 3)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Earned income is not excluded. Therefore, the Department properly included the daughter’s income in Claimant’s FAP group after the daughter turned 18.

Under PEM 212, to be considered a member of the FAP group, the child under age 22 must live with the parent or FAP group. In this case, Claimant’s daughter did not live with her for a period of time during the 2007/2008 school year. Therefore, the Department properly determined that her daughter was not a member of the FAP group during the time that the daughter did not live with her mother.

Under PEM 135, Claimant was no longer eligible for MA as a relative caretaker although she may qualify under some other medical program. Therefore, the Department properly found her ineligible for MA as a relative caretaker under PEM 135.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant’s FAP benefits and properly determined that Claimant became ineligible for MA benefits as a relative caretaker when her daughter turned 18.

Accordingly, the Department’s action is AFFIRMED.

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

Date Signed: 06/03/09

Date Mailed: 06/05/09

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 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.

TW/dj

cc:

