

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: 2009-11673
Issue No: 2013; 3015; 1017
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 5, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 March 5, 2009.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) 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) During January 2009, claimant received FIP, FAP, and MA from the department.
- (2) January 9, 2009, the department prepared a FIP budget. Claimant's total monthly income was [REDACTED] consisting solely of biweekly unemployment benefits converted to a

monthly amount. Child support payments of [REDACTED] were deducted from the total monthly income, leaving countable income for FIP purposes of [REDACTED]. Claimant had excess income to qualify for FIP. Department A.

(3) January 9, 2009, the department prepared a FAP budget. Claimant's total monthly income was [REDACTED] consisting solely of biweekly unemployment benefits converted to a monthly amount. A standard deduction of [REDACTED] was deducted as well as child support payments of [REDACTED], leaving countable income for FAP purposes of [REDACTED]. Shelter expenses were rent of [REDACTED] and a standard heat/cooling/utility/telephone deduction of [REDACTED]. Total allowable shelter expenses of [REDACTED] exceeded 50% of the countable income and claimant was eligible for an excess shelter deduction of [REDACTED]. After all allowable expenses were deducted; claimant's FAP income was [REDACTED]. A family of 2, living in [REDACTED] [REDACTED] with countable FAP income of [REDACTED] is eligible for monthly FAP of [REDACTED]. Department A.

(4) January 9, 2009, the department prepared an MA budget. Claimant's total income for MA purposes was [REDACTED] consisting solely of biweekly unemployment benefits. Child support payments of [REDACTED] were deducted, leaving net income of [REDACTED]. Through a standard formula, income was allocated to claimant's dependent. After all allowable deductions were taken; claimant's net income was [REDACTED]. Claimant's needs for MA purposes were [REDACTED]. Claimant has a monthly deductible of [REDACTED]. Department A.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the

FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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).

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).

Department manuals provide the following policy statements and instructions for caseworkers:

When determining eligibility for FIP, all household income must be included unless specifically excluded. Unemployment benefits are not excluded and must be counted when determining FIP eligibility. Income that is received weekly is to be converted to an average monthly amount by multiplying the average expected biweekly income by 2.15. A deduction from income may be made for court ordered child support paid to a non-household member.

Deduct the amount of court-ordered child support paid by a program group member from the group's total countable income. The following child support expenses are allowed:

- The amount of court-ordered child support including arrearages, paid by a program group member to non-household members in the benefit month.
- Court-ordered third party payments paid on behalf of a non-household member. (e.g., payment to landlord or utility company).
- The amount of court-ordered child support including arrearages paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Never allow more than the program group's legal obligation. The child support expense must be paid to be allowed.

Program Eligibility Manual (PEM) 500, 518

MCL 400.57 a (3)

MCL 400.57 et seq.

After careful examination of the record, the Administrative Law Judge decides that the department properly determined claimant's child support deduction and net income for FIP purposes. According to claimant's income withholding order dated November 14, 2008, claimant pays [REDACTED] in child support, arrearages, and other charges per month. The monthly amount, converted to a biweekly amount, makes for a deduction of [REDACTED] from each unemployment check, which is the amount the department included on his FIP budget. Claimant can not have a budgetable child support expense greater than that which is deducted from his bi-weekly unemployment benefits. All proper deductions for this household were included on the FIP budget. Claimant A; Finding of Fact 2; PEM 500, 518.

The department, in compliance with state and federal regulations, has established standard grants for FIP issuance. These standards are set forth at Program Reference Table

(PRT) 210 and provide that a household with 2 eligible members and countable income of [REDACTED] is not eligible for a FIP grant. Finding of Fact 2. Accordingly, the department's action to terminate claimant's FIP assistance must be upheld.

When determining eligibility for FAP, all income must be included unless it is specifically excluded. Unemployment benefits are not excluded and must be counted when determining FAP eligibility. A standard deduction from income of [REDACTED] is allowed for each household. Certain non-reimbursable medical expenses above [REDACTED] per month may be deducted for senior/disabled/veteran group members. Another deduction is provided if monthly shelter costs are in excess of 50% of the household's income after all the other deductions have been allowed, up to a maximum of [REDACTED] for non-senior/disabled/veteran households. Program Eligibility Manual (PEM) 500, 550, 554; Reference Table (RFT) 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's child support deduction and net income. See FIP discussion, above. The federal regulations set forth at 7 CFR 273.10 provide the standards for the amount of a household's benefits. The department, in compliance with these regulations, has prepared issuance tables that are set forth at Reference Table (RFT) 260. PRT 260 provides that a non-senior/disabled/veteran household of 2, living in [REDACTED] with income for FAP purposes [REDACTED] is entitled to a monthly FAP allotment of [REDACTED]. Therefore, the department had met its burden of proof and its action must be upheld.

When determining eligibility for Medical Assistance (MA), all income must be included that is not specifically excluded. Unemployment benefits not excluded and must be counted. The program provides for a deduction of court ordered child support payments that are paid.

When a group member has dependents, a percentage of income may be allocated to the dependents. Program Eligibility Manual (PEM) 500, 536.

Federal regulations at 42 CFR 435.811, .814, .831 (c)(i), and .1007 provide standards for MA eligibility. The department, in compliance with these regulations, has prepared income tables which are set forth at Reference Table (RFT) 240 and establish maximum countable income that an individual or family may have to qualify for MA. RFT 240.

Deductible is a process through which a person or household with excess income may qualify for MA. Meeting a deductible means reporting and verifying all allowable medical expenses that equal or exceed the deductible amount for the calendar month being tested. The group must report their medical expenses by the last day of the third month following the month it wants MA coverage. Medical expenses may be allowed when: a. the expenses were incurred by an MA group member, and b. the MA individual or household is responsible for payment, and c. when the bills have not been used previously to meet a deductible. The medical bill may be an old or new expense. Any of the following may be used to verify medical expenses: a. bill from medical provider, b. receipt from a medical provider, and c. contact with medical provider or provider's billing service. PEM 545, 42 CFR 435.831 (b)-(d), MCL 400.106, .107.

Third party payments are payments from any liable party for medical services. They include payments from Medicare, other health insurance, or any payment a liable third party has made or will make. PEM 545, 42 CFR 435.831 (b)-(d), MCL 400.106, .107.

After careful examination of the record, the Administrative Law Judge decides that the department properly determined claimant's countable child support deduction, MA net income, maximum countable MA income limit, and monthly MA deductible. Claimant's countable MA income of [REDACTED] when considered against the standard protected income level of [REDACTED],

leaves claimant a monthly deductible of [REDACTED]. Accordingly, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Family Independence Program, Food Assistance Program, and Medical Assistance benefits.

Accordingly, the department's action is **HEREBY UPHELD**.

/s/ _____
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 12, 2009

Date Mailed: May 13, 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.

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