

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.: 2009-16903
Issue No.: 2026, 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 27, 2009
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was conducted from Highland Park, Michigan on July 27, 2009. The Claimant appeared, along with [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's FAP allotment and MA deductible?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP and MA recipient.
2. The Claimant's benefit year runs from April 1, 2008 through March 31, 2010.
3. The Claimant's FAP allotment was reduced to \$16.00 a month at recertification.
4. The Claimant's MA case was converted to a deductible case at recertification.

5. The Claimant was notified of the action and on March 25, 2008 filed a written request for hearing.
6. On August 18, 2008, a telephone hearing was held.
7. As a result of the August 18th hearing and apparent accord, the Department agreed to recalculate the Claimant's FAP allotment and MA deductible.
8. In a letter to the Department, the Claimant stated he received \$916.00 each month in Social Security Income; paid \$182.00 in monthly medical expenses; paid a monthly telephone expense; and paid \$450.00 a month for rent which included utilities. (Exhibit 2)
9. On September 2, 2008, the Department ran a FAP budget using information provided by the Claimant and determined the Claimant's monthly allotment (prior to administrative recoupment) was \$16.00. (Exhibit 1)
10. On September 2, 2008, the Department notified the Claimant that his monthly FAP allotment, prior to administrative recoupment, was \$16.00. (Exhibit 3)
11. The Claimant's MA budget was calculated resulting in finding that the Claimant was eligible provided that a \$680.00 monthly deductible was met. (Exhibit 6)
12. On September 6, 2008, the Claimant filed a written request for hearing, protesting the FAP calculation.
13. Subsequent to the calculation and as part of the recertification, the Claimant provided updated expense information (increased rental, medical, and telephone obligations) to the Department.
14. The Department calculated the Claimant's new FAP allotment without including the increased expenses.

CONCLUSIONS OF LAW

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 Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services pursuant to MCL 400.10, *et. seq.* and MCL 400.105. Departmental policies are found in the PAM, PEM, and PRM.

The Department periodically re-evaluates cases to ensure continued eligibility for benefits. PAM 210 For FAP purposes, a complete redetermination is required at least every 12 months. PAM 210 FAP benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is entered. PAM 210 If the client does not submit a redetermination request, the benefit period expires. PAM 210

The Department determines a client’s eligibility for program benefits based on the client’s actual income and/or prospective income. For MA purposes, income eligibility exists for the calendar month tested when there is no excess income. PEM 545 The Department calculates the client’s net income figure which is then compared with the monthly income limit contained on the department’s reference tables to determine eligibility. If the client’s net income figure exceeds the figure found on the reference table, the client is not eligible for benefits.

In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554 Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment unless the client is billed for excess heat payments from the landlord, or the client reports that they have received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address. *Id.*

In the record presented, the Department calculated the Claimant's FAP benefits, at recertification, based on information/documentation provided by the Claimant. The Claimant acknowledged he did not provide the Department with updated income/expense figures prior to the budget calculations. There was no evidence that the Department failed to follow policy in determining the Claimant's eligibility in September 2008. In addition, the Department established it acted in accordance with Department policy when it determined the Claimant's MA eligibility by using the Claimant's Social Security income as reported by the SOLQ resulting in eligibility provided that a deductible is met.

In or around March of 2009, the Department recalculated the Claimant's FAP and MA budgets. Recognizing this particular issue did not exist at the time of the Claimant's hearing request, however, in an attempt to resolve all of the Claimant's issues to date, this concern was also addressed during the hearing. In reviewing the current budgets, it was discovered that the incorrect income, rent, medical, and telephone expenses were used. Ultimately, the Department agreed to recalculate the Claimant's FAP allotment and MA eligibility based upon the updated information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with department policy when it calculated the Claimant's FAP and MA budgets in September of 2008. Additionally, as agreed, the Department shall recalculate the Claimant's FAP and MA eligibility effective April 1, 2009 using the Claimant's updated income/expense information.

Accordingly, it is held:

1. The Department's FAP and MA eligibility determination in September 2008 is AFFIRMED.
2. The Department's FAP and MA budgets effective April 1, 2009 are REVERSED.
3. The Department shall recalculate, as agreed, the Claimant's FAP allotment and MA eligibility effective April 1, 2009 using the Claimant's updated income/expenses.
4. The Department shall supplement the Claimant for any lost benefits the Claimant was entitled to receive (if any) if otherwise eligible and qualified in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/11/09

Date Mailed: 08/12/09

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.

CMM/jlg

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