

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: 2009-17801

Issue No: 2013, 3015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 6, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on May 6, 2009.

ISSUE

Whether the Department properly denied Claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) program benefits?

FINDINGS OF FACT

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

- (1) On January 23, 2009, Claimant applied for FAP and MA benefits.
- (2) On January 26, 2009, the Department completed a FAP budget based on a group size of 4 and unemployment income from his wife, [REDACTED], earned

income from his daughter, [REDACTED], and [REDACTED] from his son, [REDACTED]  
[REDACTED] (Exhibit 1)

(3) On January 26, 2009, the Department sent Claimant an Eligibility Notice which explained that he was not eligible for FAP benefits. (Exhibit 2)

(4) On January 26, 2009, the Department completed a Group 2 MA Budget for Claimant and his wife which resulted in excess income and a spend down MA. (Exhibit 3)

(5) On January 21, 2009, the Department received a hearing request filed by Claimant's wife which stated that she had been attempting to contact her worker regarding medical insurance and food stamps for her husband, children and herself and had not received a return phone call.

(6) On February 6, 2009, the Department prepared a Hearing Summary which stated as follows: Date Hearing Request Received by DHS - January 21, 2009; Date client notified of department action - January 21, 2009 and the Effective date of action - blank. The Hearing Summary further stated as follows – "[REDACTED] case # [REDACTED] is requesting a hearing because she disagrees with the action taken on her MA and FAP case. [REDACTED] was not eligible for FAP based on her current income. Also, [REDACTED] was only eligible for a spend down medical that was based on her current income also. Please see attached documents: Current FAP budget showing [REDACTED] was not eligible for Food Stamps. Current MA budget showing that [REDACTED] has a spend down MA." (Hearing Summary)

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 (DHS or department), 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 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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is not earned and includes UB, FIP, RSDI and SSI. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. The Department should get input from the client whenever possible to establish this "best estimate" amount. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

In the instant case, it appears to me based on (1) the inconsistent dates of the Hearing Request and the Budgets/Eligibility Notice and (2) the mistakes made on the Hearing Summary - that Claimant's wife initially filed a hearing request because she did not get a return call from her worker. This prompted a meeting with the caseworker who then gathered information from Claimant and/or his wife and ran a budget for FAP and MA benefits. Claimant and/or his wife questioned the results so the Department treated her prior hearing request regarding not getting a call back as a hearing request on the denied application for FAP and MA benefits.

As to the FAP budget, the Department used Claimant's wife's [REDACTED] and [REDACTED] unemployment checks of [REDACTED] and [REDACTED], respectively. The Department Remarks were - "used past 30 days income to prospect. No change is expected". However, there was a change expected. Claimant was not going to receive [REDACTED] again for a two week period; this was a [REDACTED] week check. The next check Claimant received was [REDACTED] which is the benefit amount she was going to receive every two weeks going forward and the bi-weekly gross pay the Department should have used in the FAP budget. It appears that the Department used the proper bi-weekly amount of [REDACTED] for the MA budget.

With the above said, the Department did not establish that it acted in accordance with departmental policy in determining the Claimant's FAP eligibility, but did so for MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not act in accordance with policy in determining Claimant's FAP eligibility, but did so for MA eligibility.

Accordingly, the Department's FAP eligibility determination is REVERSED and its MA eligibility determination is AFFIRMED.

The Department shall:

(1) Complete a new FAP budget to include the proper amount of unearned income for Claimant's wife as articulated above and issue any supplemental benefits that he may be entitled to thereafter.

\_\_\_\_\_/S/\_\_\_\_\_  
Steven M. Brown  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: May 14, 2009\_\_\_\_\_

Date Mailed: May 15, 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.

SMB/db

cc:

