

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: 2009-1793
Issue No: 2013
Case No. [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 8, 2009
Macomb 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 June 8, 2009. Claimant personally appeared and testified. An eligibility specialist represented the Department.

ISSUE

Did the Department properly deny Claimant's applications for the Medical Assistance (MA) benefits for herself and 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 applied for FAP and MA for herself and her children on September 24, 2008. Claimant was ineligible for FAP benefits due to excess income.
- (2) Claimant did not dispute the Department's determination regarding her FAP application.

- (3) Regarding her MA application, the Department found the children eligible for MA benefits without a deductible. Claimant was found eligible for MA benefits upon meeting monthly deductible of \$678. (Exhibit 6).
- (4) Claimant disagreed with being required to pay a monthly deductible of \$678 because her monthly medical expenses have never amounted to \$678. Claimant also disagreed on the grounds that her MA budget included child support income which she did not receive from September 2008 through February 2009.
- (5) Claimant asserted that she resumed receiving child support income in March 2009 in the weekly amount of \$101.
- (6) The Department received Claimant's hearing request on October 1, 2008.

CONCLUSIONS OF LAW

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).

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).

MA ASSET ELIGIBILITY

LIF, G2U, G2C, AMP and SSI-Related MA Only

Asset eligibility is required for LIF, G2U, G2C, AMP and SSI-related MA categories.

Note: Do **not** deny or terminate TMA-Plus, Healthy Kids or Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining LIF, G2U, G2C or SSI-related MA eligibility.

Use the special asset rules in PEM 402 for certain married L/H and waiver patients. See PRG, Glossary, for the definition of [L/H patient](#) and PEM 106 for the definition of [waiver patient](#).

Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested.

At **application**, do not authorize MA for future months if the person has excess assets on the processing date.

If an **ongoing** MA recipient or active deductible client has excess assets, initiate closure. However, delete the pending negative action if it is verified that the excess assets were disposed of. Payment of medical expenses, living costs and other debts are examples of ways to dispose of excess assets without divestment. LTC and waiver patients will be penalized for divestment (see [PEM 405](#)). (PEM 400, p.4).

Under PEM 405, an asset test is applied to adults seeking MA benefits but not to minors. In this case, the Department calculated Claimant's eligibility for MA for herself and took into consideration her income and assets which included child support income. Claimant, however, asserted that she did not receive child support payments from August 2008 through February 2009; she resumed receiving child support income in March 2009. Claimant further asserted that she could not be sure that she told her worker that she was not receiving child support income, although she did notify the Department that she was not receiving the child support payments from her husband when she applied for State Emergency Relief in September 2008.

Consequently, it is found that the Department included child support income in calculating Claimant's eligibility for MA for herself when she was not actually receiving

the child support. Under these circumstances, it is found that Claimant's MA budget, effective October 2008, contained incorrect income information. The Department must verify what, if any, child support Claimant received and recalculate the budget for October 2008. Because Claimant resumed receiving child support income, the Department must also recalculate the MA budget for March 2009 to reflect that child support income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly calculated Claimant's eligibility for MA for herself by including child support income that she did not receive.

Accordingly, the Department's decision is REVERSED. The Department is ORDERED to recalculate Claimant's budget for MA eligibility for October 2008 and reimburse Claimant for MA benefits, if any, she was eligible to receive from October 2008 through February 2009. In addition, the Department also is ORDERED to recalculate Claimant's MA budget for March 2009 to include her child support income.

/s/

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

Date Signed: 06/17/09

Date Mailed: 06/22/09

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.

2009-1793/TW

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:

