

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.: 2009-22803
Issue No.: 2026/3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 20, 2009
Wayne County DHS (17)

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 hearing. After due notice, a hearing was held in Detroit, Michigan on July 20, 2009. The Claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits and Medical Assistance ("MA") deductible for the benefit year effective June 1, 2009?

FINDINGS OF FACT

The Administrative Law Judge, based on 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 submitted a redetermination application on May 4, 2009. (Exhibit 1, pp. 58 – 77)
3. The Claimant is married with four children. (Exhibit 1, pp. 34 – 39, 66)

4. The Claimant's weekly gross earnings are \$229.50. (Exhibit 1, pp. 24 – 26)
5. The Claimant's monthly mortgage obligation is \$1,323.55 if timely, and \$1371.92 if late. (Exhibit 1, pp. 17 – 21)
6. The Claimant is responsible for utilities. (Exhibits 1, pp. 22, 23)
7. The Claimant's brother contributes \$958.71 monthly for ½ of the monthly mortgage obligation and expenses. (Exhibit 1, pp. 2, 16)
8. The mortgage and utilities are in the Claimant's name only.
9. The Department calculated the Claimant's FAP benefits and determined the Claimant's monthly allotment to be \$618.00. (Exhibit 1, pp. 5 – 6)
10. The Department calculated the Claimant's MA eligibility by including the monthly contribution from the Claimant's brother as unearned income and determined the Claimant was eligible for MA provided a \$381.00 monthly deductible is met. (Exhibit 1, pp. 7 – 15)
11. On May 11, 2009, the Department received the Claimant's Request for Hearing protesting the monthly FAP allotment and the MA deductible.

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 DHS pursuant to MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the PAM, PEM, and PRM.

Group composition is the determination of which persons living together are included in the FAP program group. PEM 212 All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. PEM 500 For FAP purposes, all expenses are converted to a nonfluctuating monthly amount. PEM 554 A group’s monthly benefits are based in part, on a prospective income determination. PEM 505 A standard monthly amount must be determined for each income source used in the budget. PEM 505 Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. PEM 505 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 Reducing a FAP group’s benefit amount at redetermination is treated as a positive action since the change affects the new certification, not the current benefit period. PAM 220

MA income eligibility exists for the calendar month tested when there is no excess income or allowable medical expenses that equal or exceed the excess income. PEM 545 The fiscal group’s monthly excess income is called a deductible amount. PEM 545 Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. *Id.*

In this case, the Claimant and his brother have an agreement that provides for the Claimant’s brother to contribute \$958.71 each month as his portion of the mortgage and

expenses. The brother is under no legal obligation to make the monthly contribution. In calculating the FAP budget, the Department correctly counted the brother's contribution as unearned income for the Claimant. The Department used the full *late* monthly mortgage obligation in determining the Claimant's monthly expenses. The standard utilities deduction was also included as well as the correct group size of six. As a result of the unearned income being included in the FAP budget, the monthly FAP allotment was reduced from the prior period. As a result of the unearned income, the Claimant's MA budget resulted in eligibility provided that the monthly deductible is met. In prior periods, it appears that the brother's monthly contribution was not considered. Ultimately, the Department established it acted in accordance with department policy when it included the brother's contribution as unearned income for the Claimant, however, because the incorrect monthly mortgage obligation was used in the FAP budget, the Department's determinations are affirmed in part, reversed in part.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted in accordance with department policy when it included the brother's monthly contribution as unearned income when calculating the Claimant's FAP and MA budgets. It is further found that the Department used the incorrect monthly mortgage obligation when determining the Claimant's FAP allotment.

Accordingly, it is ORDERED:

1. The Department's MA budget is AFFIRMED.
2. The Department's FAP calculation is REVERSED.
3. The Department shall recalculate the Claimant's FAP budget (to include the brother's monthly contribution as unearned income) using the correct monthly mortgage obligation.

4. The Department shall supplement the Claimant for any lost FAP benefits he was entitled to receive 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: 07/22/09

Date Mailed: 07/22/09

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 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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