

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.: 2009-27358

Issue No.: 3003, 2013

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

July 30, 2009

Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 telephone hearing was conducted on July 30, 2009. The Claimant appeared and testified. Claimant's friend, [REDACTED], was present. [REDACTED], FIM and [REDACTED], ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits and Medical Assistance ("MA") benefits effective June, 2009.

FINDINGS OF FACT

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

1. The Claimant was an active FAP and MA recipient.
2. A new food assistance budget was compiled dated June, 2009 due to Claimant receiving unemployment. (Exhibit 1, p.2).

3. Claimant testified that she has a household group of two (2) persons.
4. Claimant testified that she received \$724.00 every two weeks in unemployment compensation.
5. The Department projected child support based on the court ordered amount even though Claimant had not received any payments in the past three months. (Exhibit 1, p. 3).
6. The Claimant testified that she is responsible for all utilities in her home.
7. The Claimant testified that her rental obligation at the time of application was \$1000.00/month
8. Following the February, 2009 budget, monthly FAP benefits were calculated in the amount of \$67.00/month. (Exhibit 1, p. 2).
9. A FIP based MA budget was calculated on 6/23/09 utilizing only the unemployment compensation.
10. Claimant objected to the FAP and MA calculations and filed this appeal. The Department received the Claimant's Request for Hearing on June 11, 2009.

CONCLUSIONS OF LAW

FAP Benefits

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 federal regulations define

household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Unearned income includes SSI payments for family members (PEM 500, p. 33) and child support (PEM 500, p. 10). The average of child support payments received in the past 3 calendar months is used to prospectively calculate child support, unless changes are expected. Amounts that are unusual and not expected to continue should not be included in the calculation.

A group's financial eligibility and monthly benefit amount are determined using actual income (income that was already received), and/or prospected income amounts (not received but expected). PEM 505, p. 1. The Department should use the average of child support payments received in the past 3 calendar months, unless changes are expected. PEM 505, p. 4. If, however, the past 3 months of child support is not a good indicator of future payments, the Department shall calculate an expected monthly amount for the benefit month based on available information and discussion with the client. Id.

Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

In the present case, the child support was prospectively calculated using the child support payments based on the family court order despite the fact that Claimant had not received any child support since February, 2009 when she received a total of \$16.47. It is unclear why the Department chose to prospectively assign Claimant income that she has not been receiving. In

fact, it was also unclear to the individuals representing the Department at the hearing. The Administrative Law Judge finds that the Department should have prospectively calculated using the amount of child support actually received by Claimant in the last three months.

Based upon the foregoing facts and relevant law, it is found that the Department's FAP determination is REVERSED.

MA Benefits

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, formally known as the Family Independence Agency, 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").

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105, p. 1. Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP related categories. *Id.*

In order to determine Group 2 FIP Related MA and Healthy Kids MA \$90 is deducted from the countable earnings of each fiscal group member with earnings. Then another \$30.00 is deducted plus 1/3 of a fiscal group member's remaining earned income if the member receipt FIP or LIF in at least 1 or 4 calendar months preceding the month being tested. There are also deductibles applied for dependent care expenses, and child support paid. The next step is to determine the prorate divisor (2.9 is added to the number of dependents) which determines the individual's prorated share. The group's net income is then divided by the prorate divisor. Finally, in order to determine the non parent caretaker's prorated share divide the personal total net income by the non-parent caretaker relatives prorate divisor. The result is the prorated share of the fiscal group member's income for purposes of determining the member's eligibility. PEM 536, pp. 3-4. Income eligibility exists for a person requesting MA when the net income of the person's fiscal group does not exceed the appropriate poverty level in RFT 246 and if the individual income is below the monthly protected income level by shelter area. RFT 200.

In the subject case, Claimant reported unemployment compensation in the amount of \$724.00 every 2 weeks. $\$724 \times 2 = \1448 divided by $2.9 + 1$ dependant = \$371.00/month as Claimant's prorated share. The prorated share multiplied by 2.9 = \$1075.00. Claimant's protected income level per RFT 200 is \$375.00 and Claimant's prorated share is \$700 over the protected income level. Therefore, Claimant does not qualify for FIP related MA through Healthy Kids based on excess income.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

cc:

