

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: 2009-28868
Issue No: 2013; 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 13, 2009
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 August 13, 2009.

ISSUES

- (1) Was the claimant's FAP allotment properly cut off?
- (2) Was the claimant's MA eligibility properly determined?

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 was receiving FAP benefits in the amount of \$70 per month.
- (2) Claimant's children were also active with the Healthy Kids MA program.
- (3) On 6-17-09, claimant attended an in-person interview for her FAP redetermination and submitted all income verifications.

(4) Claimant's FAP budget was re-run and it was subsequently determined that claimant was not eligible for FAP and MA due to excess income.

(5) Claimant's children were removed from the Healthy Kids program, and re-opened with a deductible.

(6) Claimant filed for hearing on 6-29-09, alleging that DHS incorrectly computed the budget, and therefore, allocated the wrong amount of FAP and MA benefits.

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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is

provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department did not properly compute the claimant's gross income. The gross earned income of \$3,465 is incorrect; however the correct amount, \$3,234 is reasonably close and would not make a difference in the final calculation. This is harmless error. The gross income of \$3,234, plus an average of claimant's child support payments must be added and counted, for a total of \$3,814. BEM 500. These amounts were verified by the claimant and by Department Exhibit 4. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Bridges Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is not eligible for an FAP allotment. A net income of \$1,750 is the maximum net income to be eligible for FAP for a group of the claimant's group size. Claimant is nowhere near that amount. The Administrative Law Judge has reviewed the budget and found no errors. Claimant argued that her income is a result of large amounts of overtime and a windfall in child support. While the Administrative Law Judge finds the claimant credible, the Department is still required to average claimant's income for a month to determine FAP and MA eligibility. At the very least, claimant is not eligible for FAP for the month in question. If claimant feels that she will be eligible in subsequent months, claimant can submit later income verifications to try to restore eligibility. Therefore, the undersigned finds that the FAP allotment was computed correctly.

With regard to claimant's MA, the Administrative Law Judge has reviewed the budget and could find no errors. The Department's actions were therefore correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut off claimant's FAP allotment was correct. The Department's action with regard to the Medicaid program eligibility was also correct.

Accordingly, the Department's decisions are AFFIRMED.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 18, 2009

Date Mailed: August 18, 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.

RJC/cv

cc:

