

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant

Reg. No. 2009-32604

Issue No. 3015, 2000

Case No. ██████████

Load No. ██████████

Hearing Date:

September 14, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on September 14, 2009. The claimant appeared and testified. Terry Glenn, FIS, appeared on behalf of the department.

ISSUES

1. Did the department properly deny claimant's Food Assistance Program (FAP) application due to excess income?
2. Did the department properly process the claimants Medical Assistance (MA) application?

FINDINGS OF FACT

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

1. On March 11, 2009 claimant applied MA and FAP benefits for a household of 4 persons.

2. Claimant has earnings from her employment at [REDACTED] but the amount varies depending on how many hours she works.
3. Claimant's husband has income from unemployment compensation benefits of \$724 bi-weekly.
4. Claimant had obligations for shelter and utility expenses.
5. In April 2009 the department calculated claimant's FAP budget and determined that claimant is not entitled to FAP benefits due to excess income. Department Exhibit1 pgs. 1-2.
6. Claimant requested a hearing on May 6, 2009 contesting the FAP denial and processing of MA benefits.
7. Department testified the MA benefits have since been opened for claimant and the children.
8. Claimant testified there is no longer any unresolved issue regarding the MA benefits.

#### CONCLUSIONS OF LAW

#### **FAP**

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 the gross amount of both earned and unearned income, such as unemployment compensation benefits. 7 CFR 273.9(b). Stable income received two weeks is multiplied by 2.15 to take into account fluctuations due to the number of scheduled pays in a month. PEM 505. A non-categorically eligible, non-Senior/Disabled/Veteran (SDV) FAP group must have income below the gross income limits. PEM 550 The monthly gross income limit for a non-categorically eligible, non-SDV household of 4 persons is \$2,297. RFT 250.

In the present case, the department determined that the total household gross income was \$3099. (Department Exhibit 1 pg. 1) However, the department used a prospected monthly earnings figure of \$1543 which was calculated by averaging claimants pay stubs from March 8, 2009 (\$808.22) and March 22, 2009 (\$627.47) resulting in an average pay of \$717.84. This average is then multiplied by 2.15 for conversion to a monthly standard pay of \$1543. (Department Exhibit 1 pgs. 1-2) Claimant, however, testified the March 8, 2009 pay of \$808 was abnormally high. Prior pay stubs have been provided and the Verification of Employment completed by the employer shows earning ranging from \$389.16 to \$942.65 between September 2008 and March 2009. (Department Exhibit 1 pgs. 4-9) If all earnings from September 2008 to March 2009 are used, claimant's average pay is approximately \$528.

Based upon the foregoing facts and relevant law, it is found that the income figure used by the department to determine FAP eligibility may not be correct. The department shall reinstate the March 11, 2009 FAP application and allow claimant to provide verification her actual earnings since the application date. Upon receipt, the department shall re-determine eligibility retroactive to March 11, 2009.

### **MA**

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 are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The regulations governing hearing and appeals for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads in part: An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a department action resulting in suspension, reduction, discontinuance, or termination of assistance.

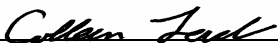
In the present case, claimant filed a hearing request regarding the processing of her MA application. The department, however, testified that MA benefits have since been opened for claimant and her children. Claimant agreed there was no longer an unresolved issue regarding the MA benefits. The department has not currently taken a negative action or failed to act in a timely manner regarding benefits or services to the claimant. The issue raised in claimant's MA hearing request has been resolved.

Therefore, this hearing is dismissed as to the MA issue pursuant to MAC R 400.903(1). PAM 600.

#### DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the income figure used by the department may not have been accurate and it is ordered that the Department's FAP determination be and is hereby REVERSED.

Therefore it is ORDERED that the department re-instate the May 11, 2009 FAP application and allow claimant the opportunity to provide verification of her actual earnings since the May 11, 2009 application. It is further ORDERED that upon receipt, the department shall re-determine eligibility retroactive to the March 11, 2009 application and award benefits to claimant, if appropriate, in accordance with this decision.

  
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Colleen Lack  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 10/05/09

Date Mailed: 10/06/09

**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.

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.

CL/dj

cc:

