

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: 2009-33371
Issue No: 2001, 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 28, 2009
Wayne County DHS

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on September 28, 2009. The Claimant appeared and testified. Farika Gibson, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant Adult Medical Program ("AMP") benefits based on excess income.

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits effective 9/1/09.

FINDINGS OF FACT

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

1. Claimant was an active AMP and FAP recipient.

2. Claimant began working and employment verifications were submitted to the Department. (Exhibit 1, pp. 1-5). However, there was a gap in between when the verifications were submitted and when received by the Department.
3. As a result, Claimant's case was closed and could not be removed from closure as the system was down for Bridges installation.
4. The Department then reinstated Claimant's FAP case including earned income in the calculated budget. Claimant's FAP benefits were decreased to \$16.00 per month.
5. The AMP remained closed as Claimant was over budget effective 8/4/09 based on two paychecks submitted by Claimant. (Exhibit 2, pp. 1-2).
6. Claimant testified that her last paycheck dated 8/11/09 was significantly less and Claimant has not worked since 7/31/09.
7. Claimant requested a hearing on August 17, 2009 contesting the department's determination that Claimant's income was in excess of the AMP limit as well as the FAP calculation.
8. At the hearing, the Department agreed to recalculate FAP benefits with Claimant's current employment information as of October 1, 2009.
9. As a result of this agreement, Claimant indicated that she no longer wished to proceed with a hearing on the issue of FAP benefits.
10. A full hearing on the issue of AMP was conducted.

CONCLUSIONS OF LAW

A. FAP

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).

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case the Department has agreed to recalculate Claimant's FAP benefits as of October 1, 2009. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing on the issue of FAP benefits. Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in the FAP case.

B. AMP

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Adult Medical Program (AMP) is available to individuals who meet all the eligibility factors. PEM 640. There are two categories of AMP. The G program (AMP-G) is for SDA

cash payment recipients who are not eligible for MA or other Department medical programs, and who do not have private health care coverage. The H program (AMP-H) is available to clients who receive medical benefits only. PEM 640, p. 2.

The program group's countable assets cannot exceed the AMP asset limit in PEM 400. Income eligibility exists when the program's net income does not exceed the program group's AMP income limit. PEM 640, p. 3, RFT 236. Countable income is income remaining after applying AMP policy in PEM 500. Id. Only available income is used. Available means income which is received or can reasonably be anticipated. When the amount of income from a source changes from month to month, the amount that will be received in the future month is estimated. The average amount is considered available in each of the months. PEM 640, p. 4. \$200 is then deducted from a program group member's gross earnings as well as 20% of the person's remaining gross earnings. However, the total disregard cannot exceed the person's gross earnings. PEM 640, p. 5.

The monthly income limit in July of 2009 for an AMP group of one living independently was \$316.00 per month. PEM 640, RFT 236. In the present case, Claimant submitted two pay stubs for \$720.00 and \$210.00. Claimant also submitted a wage verification that indicates that Claimant is paid \$70.00/day. The number of hours Claimant was expected to work was left blank as well as Claimant's expected schedule. The reality is that Claimant received one additional paycheck for \$129.00 and has not worked since 7/31/09. The verification does indicate that the hours of operation of the business are 9-5 M-F.

Claimant, therefore, earned a total of \$1059.00 over three months. Calculating the income average yields a yearly total of \$4,236.00 or \$353.00/month. $\$353.00 - \$200 \text{ less } 20\% = \122.40 . Claimant is consequently eligible to receive Medical Assistance through the AMP program. Accordingly, the Administrative Law Judge finds that the Department did not comply

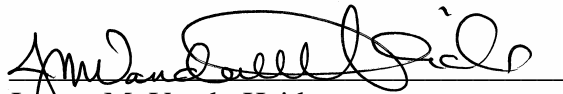
with policy in closing AMP Claimant's case as Claimant is financially eligible. Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's case AMP case is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing regarding FAP benefits and that the Department's decision to close Claimant's AMP benefits is not upheld,

Accordingly, it is ORDERED:

1. The Department shall recalculate Claimant's FAP benefits as of 10/1/09 based on Claimant's actual earned income per settlement;
2. The Department's closure of Claimant's AMP case as a result of the 8/4/09 negative action is REVERSED;
3. The Department shall reopen Claimant's AMP benefits as of the date of closure and supplement the Claimant with any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/29/09

Date Mailed: 10/30/09

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.

JV/dj

cc:

