

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: 2009-35264

Issue No: 3000, 2013

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 8, 2009

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on October 8, 2009. Claimant appeared and testified. Gail Vail, AP Supervisor, appeared on behalf of the department.

ISSUES

1. Did the Department properly determine claimant's Food Assistance Program (FAP) allotment?
2. Did the Department properly determine that claimant had a spend-down for the Medical Assistance (MA) program?

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 an ongoing recipient of MA and FAP benefits in a household of four persons.

(2) On August 3, 2009, claimant attended an in-person interview as his case was up for redetermination.

(3) A Verification Checklist was issued August 3, 2009 for claimant to provide a copy of his 7/24/09 pay stub by August 13, 2009.

(4) On August 17, 2009, the department closed the benefits for failure to provide verification by the due date.

(5) On August 20, 2009, claimant filed a hearing request to contest the closure.

(6) On September 9, 2009, the department reviewed the case and found a recent pay stub had been submitted to the department relating to a State Emergency Relief application. The department reinstated the FAP benefits and determined claimant now had a spend-down of \$235 for the MA benefit.

(7) Claimant disagrees with the amount of the FAP allotment after reinstatement and the spend-down for the MA benefits.

(8) At the hearing, the department agreed that claimant is owed supplemental FAP benefits for the months of September and October 2009 and that the FAP benefits should increase effective November 2009.

CONCLUSIONS OF LAW

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 (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 Program Reference Manuals.

The Medical Assistance program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a MA group falls within the needy classification. Under BEM Items 544 and 545, an eligible Medical Assistance group (Group II MA) has income the same as or less than the “protected income level” plus medical insurance premiums as set forth in the policy contained in the program reference table. An individual or MA group whose income is in excess of the monthly protected income level is ineligible to receive MA.

However, an MA group may become eligible for assistance under the deductible program. A deductible is a process, which allows a client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group’s monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831. The department uses current and old medical obligations (old bills) as well as expenses for personal care services in the home to determine if a deductible was met. BEM 545.

The monthly protected income level for a Medical Assistance group of one living in Ingham County is \$408 per month. RFT 200 and 240. BEM 536 explains the 16 step calculation used to determine the fiscal groups net income, which does include allowing an expense for child support payments.

In the present case, Bridges budget information provided by the department shows an adult prorated income of \$222 was calculated and used to determine the total net income of \$643. (Department Exhibit 2, pg. 3) Using the information provided, this ALJ has been unable to arrive at the same adult prorated income figure of \$222 following the income calculation as outlined in BEM 536.

Further, claimant disagrees with the child support. The additional information provided by the department indicates no expense was allowed for the child support payments claimant makes. (Department Exhibit 3 pg. 1) The department explained that they have contacted friend of the court for verification of the child support, but have not yet received a response.

Accordingly, the new Bridges computer system will not allow the child support payment expense. (Department Exhibit 3 pg. 1) However, the department did have copies of claimant's pay stubs showing the child support payments were being automatically deducted from his earnings. (Department Exhibit 1 pgs. 12-13) Claimant's case should not be penalized because the Friend of the Court has not timely responded to the department's request to verify child support payments. The child support payment expense should be included in the MA budget for determining income eligibility.

Based upon the foregoing facts and relevant law, it is found that the department has not properly calculated the MA income determination. Accordingly, the department's MA deductible determination is REVERSED. Therefore, the department shall re-determine income eligibility for MA retroactive to September 2009.

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 (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 Program Reference Manuals.

Under Bridges 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, claimant filed a hearing request contesting the department's FAP determination. At the hearing, the department agreed that claimant is owed supplemental FAP benefits for the months of September and October 2009 and that the FAP benefits should increase effective November 2009. As a result of this agreement, claimant indicated he no longer wished to proceed with the hearing. 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 relating to FAP benefits in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

(1) The department the department has not properly calculated the MA income determination. Accordingly, the MA determination REVERSED.

Therefore it is ORDERED that the department re-determine claimant's MA income eligibility retroactive to September 2009.

(2) The department and claimant have come to a settlement regarding claimant's request for a hearing on the FAP benefits.

Therefore it is ORDERED that the department re-determine claimant's FAP eligibility retroactive to September 2009, awarding benefits to claimant, if appropriate, in accordance with this settlement agreement.

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

Date Signed: October 21, 2009

Date Mailed: October 21, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

cc:

