

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: 2010-11925

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

February 2, 2010

Cass County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from ██████████ on February 2, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

- (1) On November 6, 2009, Claimant completed and filed an online application for FAP benefits. (Exhibit 4)
- (2) The Department subsequently completed a FAP budget which resulted in a monthly FAP allotment of ██████ due to excess income. (Exhibits 5, 6)

(3) On November 13, 2009, the Department mailed Claimant a Notice of Case Action which states that the action taken on the MA program for [REDACTED] for November 2009 was “denied” because he was eligible for this program in another case. MA was also “denied” for December 2009 for [REDACTED] because [REDACTED] was eligible for this program in another case. The Notice of Case Action also states that the FAP case was closed because the net income exceeds the limit.

(Exhibits 2, 7)

(4) On November 19, 2009, the Department received the Claimant’s hearing request.

(5) On November 19, 2009, the Department mailed Claimant a Notice of Case Action with a MA deductible for [REDACTED]. (Exhibit 1)

(6) On December 3, 2009, Claimant signed a Hearing Request Withdrawal for a Hearing Request Date of December 2, 2009. (Exhibit 3)

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. Departmental 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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505

In the instant case, the Department did not supply any documentation at hearing because "Claimant had withdrawn her hearing request". The Department sent documentation after the hearing which included a Hearing Request Withdrawal signed by Claimant for a Hearing Request Date of December 2, 2009. The Hearing Request at

issue, however, is a November 19, 2009 Hearing Request Date of a November 13, 2009 Notice of Case Action.

The Department stated at hearing that the November 13, 2009 Notice of Case Action involved Claimant's FAP case closing and that she was eligible for a MA spend down. Claimant testified that she understood that her MA case went to a spend down, agreed that the Department used the correct income and expense figures in completing the FAP and MA Budgets, but could not afford the spend down deductible and does not understand why she is not entitled to more benefits given her current financial situation. Claimant is also dissatisfied with the Department's current policy as it relates to computation of FAP and MA eligibility in terms of yielding inconsistent and unfair results.

After hearing, the Department sent the undersigned the November 13, 2009 Notice of Case Action. It does not involve a MA spend down. It involves a denial for November 2009 for [REDACTED] and a denial for December 2009 for the whole household and the reason given is that [REDACTED] is eligible for this program in another case. The Department also sent page 1 of 4 of a November 19, 2009 Notice of Case Action which states that [REDACTED] has an [REDACTED] deductible.

With the above said, based on the testimony and documentation offered at and after hearing, I find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility, but I cannot reach this conclusion for Claimant's MA eligibility based on the inconsistent and/or lack of information provided by the Department at and after hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's FAP eligibility. I do not find that the Department acted in accordance with policy in computing Claimant's MA eligibility.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED. The Department's MA eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Re-process Claimant's MA application for November and December 2009, the subject of the November 13, 2009 Notice of Case Action.
- (2) Issue Claimant supplemental benefits she is entitled to, if any.
- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 11, 2010

Date Mailed: February 11, 2010

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 60 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.

SMB/db

cc:

