

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.: 2010-19360
Issue No.: 2006/3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 18, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 Detroit, Michigan on March 18, 2010. The Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

1. Whether DHS properly closed Claimant's Food Assistance Program (FAP) benefits for failure to submit verifications?
2. Whether DHS properly closed Claimant's Medical Assistance (MA) benefits for non-cooperation in obtaining child support?

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 FAP and MA recipient.
2. On 10/30/09, Claimant submitted a Semi-Annual Contact Report (DHS-1046).
3. On 10/30/09, Claimant also submitted four weekly check stubs with pay dates of: 10/9/09, 10/16/09, 10/23/09 and 10/30/09.
4. Claimant's FAP benefits ended 11/30/09 because DHS states Claimant failed to verify a full 30 days of income, specifically, Claimant's pay from 10/1/09-10/30/09.
5. Claimant submitted a hearing request on 12/10/09 regarding closure of her FAP.
6. On 5/31/09, DHS received a notice of non-cooperation regarding child support; DHS was not able to sufficiently identify the non-cooperating parent.
7. On 1/15/10, DHS closed Medicaid for some or all of the household members; the basis for the closure was an unknown household member failed to cooperate with obtaining child support.
8. On 1/25/10, Claimant submitted a hearing request regarding the Medicaid closure.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

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 PAM, PEM) and RFT.

Claimant testified that DHS failed to issue FAP benefits for 11/2009. DHS testified that 11/2009 FAP was issued. DHS supplied a Bridges Benefit Summary Inquiry which verified that 11/2009 FAP was issued to Claimant on 11/9/2009. Claimant did not supply any documents. It is found that Claimant received FAP benefits for 11/2009.

DHS cited different reasons for Claimant's FAP closure. DHS testified Claimant's FAP closed because of inadequate income verifications submitted with a DHS-1046 and a failure to comply with child support cooperation requirements.

Claimant credibly testified that the DHS-1046 was submitted on 10/30/09. DHS acknowledged this after initially claiming that the DHS-1046 was not submitted. It is found that Claimant submitted the DHS-1046 on 10/30/09.

DHS and Claimant agree that Claimant only submitted four weeks of employment income verification with the DHS-1046. The checks stubs submitted were for: 10/9/09, 10/16/09, 10/23/09 and 10/30/09. DHS contends that Claimant should have also submitted verification of employment income for 10/2/09 because 10/2/09 would have fallen within the 30 days prior to Claimant's submission of her DHS-1046.

BEM 505 provides guidance on identifying an appropriate 30 day period for income verifications. It reads, "For FAP only, when processing a semi-annual contact, the 30-day period can begin up to 30 days before the day the DHS-1046, Semi-Annual Contact Report, is received by the client or the date a budget is completed. Any 30-day period that best reflects the client's prospective income within these guidelines can be used."

Claimant submitted a full 30 days of income verification where the 30 day period ended between 11/2/09 through 11/6/09. Had DHS processed the DHS-1046 during that period instead of returning the checks to Claimant, the income verifications would have complied with DHS policy requirements. It is found that Claimant's submitted sufficient income verification for the DHS-1046 to be processed.

DHS also cited child support non-cooperation as a basis for closure of the FAP benefits. BEM 255 describes the importance of child support and its cooperation requirements, "Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent." It further mandates, "Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending."

In the present case, DHS indicated that Claimant, her husband, her children and grandchild had their Medicaid terminated due to non-cooperation with child support. BEM 255 provides that a non-cooperating group member will be disqualified from receiving Medicaid. There is no basis in BEM 255 for terminating an entire group's MA coverage due to a single non-cooperating member. It is found that Claimant's MA group was improperly terminated from MA benefits on the basis of non-cooperation.

The above finding is subject to two qualifications. First, Claimant indicated that her spouse was not a household member for an unspecified amount of time. As a non-household member, Claimant's spouse might not be eligible for MA benefits within Claimant's MA group.

DHS may consider the spouse's absence in adjusting Claimant's MA benefits. Secondly, some group member was found to be non-cooperative in obtaining child support. DHS may consider that finding when recalculating the group's eligibility for MA benefits. However, because the undersigned was not able to consider the accuracy of that finding because DHS could not sufficiently indicate which member was non-cooperative and for which child, Claimant's right to submit a subsequent hearing request for that issue shall be preserved by her 1/25/10 hearing request.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly closed Claimant's FAP and MA cases. It is ordered that DHS shall:

1. calculate Claimant's FAP benefits beginning 12/1/09 using the income verifications already provided by Claimant; DHS may factor disqualification of any FAP members due to disqualification from child support non-cooperation
2. calculate MA for the group from the date of closure; DHS may consider the absence of James Higgins from the home and letters of non-cooperation of child support when redetermining group eligibility for MA

Future hearing requests by Claimant regarding the issue of cooperation with child support shall have an effective date of 1/25/10 so Claimant is not penalized by DHS inability to establish which member was non-cooperative with obtaining child support during this hearing.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/29/2010

Date Mailed: 3/29/2010

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.

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