

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: 2010-4386
Issue No: 2024; 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 8, 2009
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 December 8, 2009.

ISSUE

Was excess income (MA)/increased income (FAP) established?

FINDINGS OF FACT

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

- (1) Negative case action: Change of Medicaid on October 12, 2009 to a "deductible" based on excess income and reduction on September 3, 2009 of FAP from \$600 to \$98 a month based on receipt of Social Security benefits by claimant's husband per PEM 211/212.
- (2) Leading up to October 2, 2009, the claimant's household included her husband.

(3) On October 2, 2009, the claimant's husband applied for FAP in a different county other than the county in which the claimant lived.

(4) On October 5, 2009, Social Security records showed that the husband's address was still with the claimant.

(5) On August 31, 2009, the claimant in anticipation verbally from the local DHS regarding the negative actions above filed a hearing request.

CONCLUSIONS OF LAW

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

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

Facts above are undisputed.

The DHS attempted to prove its case by documentary evidence of two to three persons not in attendance at the hearing for cross-examination by the claimant required by MCL 24.272. Therefore, the hearsay statements of the missing persons at the hearing were inadmissible.

The DHS had the burden of proof to establish by the preponderance of the evidence of record that the husband was still part of the claimant's household in support of its negative case actions.

The claimant testified under oath that she and her husband were having marital problems; and that he moved to a different county in October 2009 where he applied for DHS benefits.

The DHS relied on a Social Security document that on October 5, 2009, the husband was still part of the claimant's household because he had not changed his address to the new county. It was only approximately three days from August 2, 2009 to August 5, 2009. That does not mean he was still living with the claimant because he had not changed his address with the Social Security Administration, yet.

This hearing authority finds the claimant's testimony under oath and the fact that her husband applied for DHS benefits in a different county more trustworthy and reliable than the hearsay Social Security document that he was still living with the claimant because the address was still that of the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that excess income (MA)/increased income (FAP) was not established.

Accordingly, Medicaid changed to a deductible and FAP reduction are REVERSED.

/s/ _____
William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 30, 2009

Date Mailed: December 30, 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 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.

WAS/tg

cc:

