

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201044782
Issue No.: 2014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 23, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 a hearing. After due notice, a telephone hearing was held on August 23, 2010. The claimant appeared and testified.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On July 9, 2010, the department, as part of a review, notified the claimant that her FAP and MA benefits were closing on July 31, 2010.
2. On July 19, 2009, the claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 (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).

The claimant receives an insurance settlement that is \$2,730.00 for months with thirty (30) days and \$2,821.00 for months with 31 thirty-one (31) days. The claimant argues that her net insurance payments, amount after the attorney fee is subtracted, should be the amount that is used.

EXPENSES OF OBTAINING UNEARNED INCOME

Bridges excludes amounts paid or withheld from unearned income which are essential expenses of obtaining the income. Enter these amounts in the expense screen of the unearned income LUW.

Examples:

Legal and medical expenses withheld from a lawsuit settlement.

Disability insurance premiums which must be paid to continue current disability payments. (BEM 503, p.1)

Here, the claimant is correct. She receives the amount previously stated less attorney fees of \$910.00 per month.

This ALJ finds the department erred when it didn't subtract the attorney fees from the claimant's monthly award.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department recalculate the claimant's FAP and MA minus the amount paid monthly in attorney fees.

201044782/MJB

The department is further ordered to calculate the claimant's possible Family Independence Program (FIP) grant using the same formula.



Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 9/14/2010

Date Mailed: 9/14/2010

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 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.

MJB/jlg

cc:

