

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201048250  
Issue No: 2013, 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 9, 2010  
Kalamazoo County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on August 3, 2010. After due notice, a telephone hearing was held on Thursday, September 9, 2010.

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility?

**FINDINGS OF FACT**

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

1. The Claimant is an ongoing FAP and MA recipient.
2. The Claimant received monthly child support income in the gross monthly amount of \$ [REDACTED] for March of 2010, \$ [REDACTED] for April of 2010, [REDACTED] for May of 2010, \$ [REDACTED] for June of 2010. Department Exhibit 3.
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Department Exhibit 5.
4. On June 14, 2010, the Department determined that the Claimant was not eligible for MA benefits due to excess income. In addition, the Claimant's FAP allotment decreased due to her income. Department Exhibits 12 – 17.

5. The Department received the Claimant's request for a hearing on August 3, 2010, protesting the termination of her MA benefits and decrease in her FAP allotment.

### **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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), 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 for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. 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.

The Department completed a FAP budget to determine the Claimant's eligibility for benefits in July of 2010. The Claimant receives RSDI income and child support income. The Claimant received child support payments totaling \$ [REDACTED] in March of 2010, \$ [REDACTED] in April of 2010, and \$ [REDACTED] in May of 2010. The Department took the average of these three monthly totals and determined that her prospective child support income was \$ [REDACTED]. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED]. The sum of these two income sources gives the Claimant a total income of \$ [REDACTED]. The Claimant's adjusted gross income of \$ [REDACTED] is determined by subtracting the standard deduction of \$ [REDACTED] from her total income. An

excess shelter deduction of \$ [REDACTED] was determined by adding the Claimant's monthly shelter expenses of \$ [REDACTED] to the heat and \$ [REDACTED] utility standard under the Low Income Home Energy Assistance Program and subtracting half of her adjusted gross income.

The Claimant's net income of \$ [REDACTED] is determined by subtracting the excess shelter deduction from her adjusted gross income. A claimant with a group size of one and a net income of \$ [REDACTED] is entitled to a FAP allotment of \$ [REDACTED].

On June 14, 2010, the Department notified the Claimant that she was no longer eligible for the Medicare Savings Program or SSI related Medicaid due to excess income. The Claimant's average monthly child support income for the previous three months was \$ [REDACTED]. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]. The sum of these two income sources gives the Claimant a total income of \$ [REDACTED]. The income limit to receive SSI related MA benefits is \$ [REDACTED]. Therefore, the Claimant was not eligible to receive benefits.

The Claimant argued that child support payments received at the end of the month are not available in her bank account until the beginning of the month and that using an average monthly income based on the date payments were disbursed is not an accurate reflection of her monthly income. The Claimant testified that the child support payment disbursed on April 20, 2010, was higher than other payments due to an income tax refund.

The Claimant receives child support income on a weekly basis and will receive a varying number of payments in a given month depending how the payment schedule falls on the calendar. Since the Department uses a three month average when income receives is irregular, the timing of child support payments received towards the end of the month will not affect her eligibility to receive benefits.

The Department will use the average of child support payments received in the past three calendar months, but will not include amounts that are unusual and not expected to continue. BEM 505. If payments for the past three months vary, the Department will discuss the payment pattern from the past with the client and if there are known changes that will affect the amount of the payments for the future, then it will not use the past three months to project income. BEM 505. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussions with the client. BEM 505.

The Claimant received 15 child support payments of \$ [REDACTED] and one child support payment of \$ [REDACTED] from March 1, 2010, through June 30, 2010. The payment the Claimant received on April 20, 2010, is unusual and there is nothing that suggests that similar payments are expected to continue.

The Department testified that its policies prevent it from re-determining the Claimant's eligibility for MA and FAP benefits for July of 2010, and cited Bridges Eligibility Manual

Item 544. This Administrative Law Judge cannot anything in this policy prohibiting the Department from examining the Claimant's eligibility for past months after an unusual income payment is discovered.

Based on the evidence and testimony available during the hearing, I find that the Department has not established that it used the best information available to determine the Claimant's prospective child support income for July of 2010.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not establish that it used the best information available to determine the Claimant's prospective child support income for July of 2010.

Accordingly, the Department's MA and FAP eligibility determination are REVERSED. It is further ORDERED that the Department shall:

1. Allow the Claimant the opportunity to clarify whether the child support payment she received on April 20, 2010, is unusual and whether using a three month average was the best method of determining her prospective child support income.
2. If it is determined that using a three month average is not the best method of determining prospective child support income to determine the Claimant's eligibility for benefits in July of 2010, then the Department shall initiate a determination of the Claimant's eligibility for MA and FAP benefits effective July 1, 2010, using the best information available to determine the Claimant's prospective income.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

\_\_\_\_\_/s/

Kevin

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

2010-48250/KS

Date Signed: October 6, 2010

Date Mailed: October 6, 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.

KS/alc

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