

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.: 2010 20094
Issue No.: 2021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 19, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was conducted in Madison Heights, Michigan on Monday, July 19, 2010. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly denied the Claimant's Medical Assistance application?
2. Whether the Department properly denied the Claimant's Food Assistance application?

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 submitted an application for public assistance seeking food assistance ("FAP") and medical assistance ("MA") benefits on October 13, 2009.
2. On October 24, 2009, the Department sent a verification checklist to the Claimant requesting verification of income/assets and employment information be submitted by November 5, 2009. (Exhibit 1, p. 5)
3. The Claimant submitted bank statements and provided employment information. (Exhibit 1, pp. 12 – 22)

4. On January 4, 2010, the Department sent a second verification checklist to the Claimant requesting verification of the Claimant's son's and wife's employment income. (Exhibit 1, p. 6)
5. The Claimant's son is (was) 19 years old and is a full-time high school student. (Exhibit 1, p. 23)
6. The Claimant owns three vehicles. (Exhibit 1, pp. 9 – 11)
7. The Claimant receives Retirement, Survivor's, Disability Insurance ("RSDI") income.
8. On January 25, 2010, the Department sent a Notice of Case Action to the Claimant informing him that the FAP and MA benefits were denied.
9. On January 26, 2010, the Claimant submitted statements from family members who loaned the Claimant money and employment information for the Claimant's wife.
10. On January 29, 2010, the Department received the Claimant's timely written request for hearing. (Exhibit 2)

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant's request for hearing addresses two separate programs. Each program will be addressed separately.

MA Application

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

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. PEM 105 Medicaid is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP-related or SSI-related. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or

older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive MA under FIP-related categories. *Id.*

MA is available to parents and other caretaker relatives who meet certain criteria. BEM 135 A caretaker relative is a person who (except for temporary absences) lives with a dependent child, is the parent of the dependent child, or a specified relative who acts as parent for the dependent child. *Id.* A dependent child is must be under the age of 18 or be age 18 and a full-time student in a high school (or in the equivalent level of vocational or technical training) and be expected to graduate (complete training) before the age of 19. BEM 135

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. *Id.* If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. *Id.* Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. *Id.* If a client cannot provide the verification, despite reasonable effort, an extension should be granted up to three times. *Id.* A negative action notice is sent when the client refuses to provide a verification or the time period given has elapsed. *Id.*

In addition to income, assets must be considered in determining MA eligibility. BEM 400 Assets are cash and any other personal and/or real property. *Id.* Countable assets must be available and cannot exceed the applicable asset limit. *Id.* Available means that someone in the asset group has the legal right to use or dispose of the asset. *Id.* SSI-related MA allows for the exclusion of one motorized vehicle whenever a group owns multiple vehicles. *Id.* First the employment asset exclusion is considered then, of the remaining vehicles) the vehicle with the highest equity value is excludes. *Id.*

In this case, the Claimant's son, who was in high school, was 19 years old. Low-Income Family MA benefits define a dependent child as one that is in high school, full-time, and expected to graduate before turning the age 19. Under these facts, the Claimant was not eligible under this particular MA program because his son was already 19 and still in high school. Subsequently, the Department discovered that the Claimant received RSDI income based on disability. As a result, the Department determined eligibility under the MA-P program which required the Department to consider the Claimant's assets. In January 2010, the Claimant owned three vehicles; a 1996 Yukon with a blue book value of \$1,290.00; a 2001 Bonneville with a blue book value of \$2,665.00; and a 2003 Trailblazer with a blue book value of \$5,825.00. As provided for in policy, the Department excluded the highest equity valued vehicle. The two remaining vehicles were valued at \$3,955.00 which meant that the Claimant had

excess assets for the MA-P program. Ultimately, the Department's denial of the Claimant's MA application due to excess assets is AFFIRMED.

FAP Application

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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"), and the Bridges Reference Manual ("BRM").

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. *Id.* If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. *Id.* Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. *Id.* If a client cannot provide the verification, despite reasonable effort, an extension should be granted up to three times. *Id.* A negative action notice is sent when the client refuses to provide a verification or the time period given has elapsed. *Id.*

In this case, the Claimant submitted the requested verifications but there was some conflicting information from what was submitted compared to the Claimant's statements. For instance, the Claimant informed the Department that his son worked at a retail store but stated he did not receive any earnings for doing so. What was not stated was that the family owned the retail store thus the son was working to help his family. Under this scenario, the fact that the son received no earnings was understandable. Further, the family business was liquidated in or around November 2009. The Department was also unaware of this. The Claimant was in contact with the Department and attempted to provide all the requested information. Although the Department attempted to clarify the conflicting information, the Department never ran a FAP budget and denied the case based on the failure to provide the requested verification. There was no evidence that the Claimant had refused to cooperate. Ultimately, it is found that the Department's FAP determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department established it acted in accordance with department policy when it denied the Claimant's MA application. It is further found, that the FAP determination is not upheld.

It is ORDERED:

1. The Department's MA determination is AFFIRMED.
2. The Department's FAP determination is not upheld.
3. The Department shall re-open, reprocess, and calculate the Claimant's FAP budget in accordance with policy.
4. The Department shall notify the Claimant in writing of the FAP determination.
5. The Department shall supplement the Claimant for FAP benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/21/2010

Date Mailed: 07/21/2010

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 of the rehearing decision.

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