

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: 2010-28216

Issue No: 3002/3019

Case No:

Load No:

Hearing Date:

May 17, 2010

Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing submitted on February 23, 2010. After due notice, a telephone hearing was conducted in Wayne County, Michigan on May 17, 2010. The Claimant appeared and testified by telephone. DeEtta Stephens, ES and Ken Swiatkowski FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits, and did the Department properly remove the Claimant's medical expense from her budget?

FINDINGS OF FACT

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

1. Claimant is a FAP recipient and is in a SDV group of one. The Claimant was notified on January 22, 2010, by Notice of Case Action, that her FAP benefits

would be reduced because her medical expenses were removed by the Department. Exhibit 1

2. The Claimant testified that she incurs \$76 each month for prescriptions which are not covered by her medical coverage and has done so for a number of years.
3. The Department could not explain why the medical expense was initially included in the Claimant's FAP budget. The Department did not request verification from the Claimant for the medical expense.
4. The Claimant's request for a hearing was received by the Department on March 22, 2010 contesting the reduction of her food assistance.
5. At the hearing, the Department agreed to recalculate FAP benefits to include a medical expense deduction.
6. The Claimant agreed to provide the Department receipts for her medical prescription expenses within 10 days or within an additional time period if the claimant requests an extension before the expiration of the 10 day period.
7. The Department also agreed to recalculate the Claimant's FAP budget retroactive to the Notice of Case Action and to supplement the Claimant for benefits she was otherwise entitled to receive.
8. The Department further agreed to supplement the claimant's FAP benefits retroactive to March 1, 2010, as appropriate, to account for FAP benefits which were not received by the Claimant due to the exclusion by the department of the medical expense deduction for her prescription.
9. As a result of this agreement, Claimant indicated that she no longer wished to proceed with a hearing.

CONCLUSIONS OF LAW

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).

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case, the department has agreed to recalculate the Claimant's FAP budgets retroactive to March 10, 2010, when her FAP benefits were reduced pursuant to Notice of Case Action, to account for the removal of the Claimant's medical expense deduction which was omitted when computing the claimant's FAP budget.

The Claimant agreed to provide the Department, after the hearing, the necessary verification of medical expense for her prescription that she expends monthly within 10 days.

The Department agreed to supplement the Claimant's FAP benefits as required, retroactive to March 1, 2010, for FAP benefits she was otherwise entitled to receive. As a result of this agreement, Claimant indicated he no longer wished to proceed with the hearing.

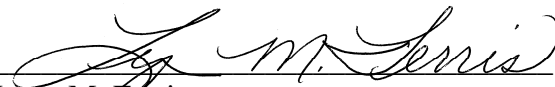
Since the Claimant and the Department have come to an agreement, it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly, it is ORDERED:

1. The Department shall review and recalculate Claimant's FAP benefits from March 1, 2010 through the date of the hearing, and the Department will include, in all months, the Claimant's medical expense for prescriptions deduction as part of the Claimant's FAP budget.
2. The Claimant shall provide the Department with verification of her medical expenses of \$76 for prescription within 10 days. The Claimant shall be entitled to an extension of time should same be necessary and requested by the Claimant prior to the expiration of the 10 day period.
3. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive retroactive to March 1, 2010 as a result of her medical expenses being removed from the Claimants FAP budget.


Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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.

LMF/dj

cc:

