

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 201030056

Issue No.: 2012, 3002

Case No:

Load No:

Hearing Date:

May 3, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on May 3, 2010 from Detroit, Michigan. The Claimant was present and testified. ██████████ ES appeared on behalf of the Department.

ISSUE

Whether the Department properly processed the Claimant's Medical Assistance Program (MA-P) benefits?

Whether the Department properly calculated Claimant's Food Assistance Program ("FAP") benefits effective February 1, 2010?

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 applied for MA benefits on August 3, 2009 via an application that was dropped off at the local district office. (Exhibit 2).
2. The Department did not register or process Claimant's MA application.
3. The Claimant was also an active FAP recipient.
4. The Department decreased Claimant's FAP benefits from \$588.00 per month to \$227.00 per month effective 2/1/10 based on receipt of under employment compensation benefits.
5. Claimant reports a group size of four.
6. Claimant's earned income is as follows:
 - a. 1/22/10 - \$217.50
 - b. 1/29/10 - \$456.75
 - c. 2/5/10 - \$438.63
 - d. 2/12/10 - \$445.88
 - e. 2/19/10 - \$442.25
 - f. 2/26/10 - \$442.25
7. Claimant's unemployment compensation benefits received is as follows:
 - a. 12/19/09 - \$242.00
 - b. 12/26/09 - \$264.00
 - c. 1/2/10 - \$111.00
 - d. 1/9/10 - \$124.50
 - e. 1/16/10 - \$108.00
 - f. 1/23/10 - \$253.00
8. Claimant testified that underemployment compensation eligibility ended when she began working 30 hours per week.

9. Claimant reported that she is responsible for rent in the amount of \$1,000.00 per month and is also responsible for paying her utilities.
10. The Department received Claimant's request for a hearing on January 25, 2010.

CONCLUSIONS OF LAW

A. MA

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 400.1 *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT).

A request for public assistance may be in person, by mail, telephone or through by an internet application. BAM 110, p. 1. Clients must complete and sign public assistance applications. BAM 115, p. 1. An application is incomplete until enough information is provided to determine eligibility. BAM 115, p. 3. Registered applications must contain, at a minimum, the name, birth date, and address of the applicant, along with the signature of the applicant or authorized representative. BAM 105, p. 1. Retro-MA coverage is available back to the first day of the third calendar month prior to the application date. BAM 115, p. 8. The date of application is the date the local office receives the required minimum information on an application. BAM 110, p. 5. If a client refuses to cooperate in the application process, a denial notice is sent within the standard of promptness. BAM 115, p. 15.

The Department is required to process each application within a specified time period. This standard of promptness begins the date the department receives an application/filing form, with minimum required information. BAM 115, p. 10-11. The Department is required to

approve or deny the application and mail the client a notice within 45 days. BAM 115, p. 11. The Standard of promptness for MA cases cannot be changed for any reason. The Administrative Law Judge finds that Claimant submitted a MA application as evidenced by the signed log in sheet. In the subject matter, the Department failed to process, or even register, the case within the required 45 days. Therefore, The Department has failed to meet the Standard of Promptness for processing the MA.

B. FAP

The Food Assistance Program, 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”), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and MAC R 400.3001-3015. Departmental policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. BEM 554. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. *Id.* The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In the present case, Claimant's FAP benefits were recalculated effective 2/1/10, however, the evidence shows that Claimant began working 30(+) hours per week at the beginning of February, 2010 and her unemployment benefits then stopped. Effective, 2/1/10, only Claimant's earned income should have been counted in the FAP budget. According to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$1000 + \$555 = \$1155.00$ (A). 50% of the income less deductions = $\$812.00$ (B). $(A - \$1155) - (B - \$812) = \$343.00$. Claimant, therefore, has a net monthly income of $\$1282.00$. This was obtained by subtracting the standard deduction of $\$144.00$ and the excess shelter amount of $\$343.00$ from the gross income of $\$1769.00$. A household of four persons with a net monthly income of $\$1282.00$ is entitled to a monthly FAP grant of $\$283.00$ per month. RFT 260.

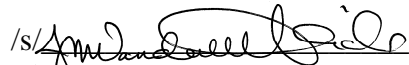
Based upon the foregoing facts and relevant law, it is found that the Department's FAP decrease effective 2/1/10 is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's FAP allotment effective 2/1/10 and that the Department did not meet the standard of promptness for processing Claimant's MA application..

Accordingly, it is ORDERED:

1. The Department's FAP calculation effective 2/1/10 is REVERSED.
2. The Department shall reprocess Claimant's FAP benefits for February, 2010 through the present using the budgets as set forth above.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive.
4. The Department failed to comply with the standard of care and process the Claimant's 8/3/09 MA application in a timely manner.
5. The Department shall initiate review of the August 3, 2009 application to determine if all other non-medical criteria are met and inform the Claimant of the determination. If Claimant's 8/3/09 application cannot be located, then the Department shall allow Claimant to submit a new MA application which will then be processed retroactive to 8/3/09.
6. The Department shall supplement the Claimant any lost benefits she was entitled to receive if otherwise eligible for MA and qualified in accordance with department policy.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 12, 2010

Date Mailed: May 12, 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 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 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.

JV/hw

cc: 

