

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: 2010-37255
Issue No: 3000, 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 23, 2010
Marquette 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 May 20, 2010. After due notice, a telephone hearing was held on Wednesday, June 23, 2010. The Claimant was not present, but he was represented at the hearing by his Authorized Hearing Representative (AHR).

ISSUES

- (1) Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?
- (2) Whether the Department of Human Services (Department) properly determined the Claimant's 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 received FAP benefits until January 1, 2010.

(2) On December 15, 2009, the Department notified the Claimant that his FAP benefits would be terminated as of January 1, 2010, due to excess income.

(3) On May 13, 2010, the Department notified the Claimant that his MA-Extended Care was closing effective June 1, 2010, and that his Medical Assistance would revert back to MA-G2S with a [REDACTED] deductible.

(4) The Department received the Claimant's request for an appeal on May 20, 2010, protesting the termination of his FAP benefits, and the [REDACTED] deductible on his MA benefits.

CONCLUSIONS OF LAW

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).

Clients have the right to contest any Department of Human Service (Department) action affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600, p. 1. Clients may contest the Departments action by requesting a hearing within 90 days of that action. MAC R 400.904(4).

The Department received the Claimant's request for a hearing on May 20, 2010. The Claimant's AHR did not dispute that the Claimant's request for a hearing was untimely, with respect to the closure of the Claimant's FAP benefits. Therefore, the Claimant's hearing request,

protesting the closure of his FAP benefits case, must be dismissed because the State Office of Administrative Hearings and Rules (SOAHR) no longer has jurisdiction over this issue.

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).

On May 13, 2010, the Department notified the Claimant that his MA-Extended Care was closing effective June 1, 2010, and that his Medical Assistance would revert back to MA-G2S with a [REDACTED] deductible.

The Claimant argued that the Department was not properly considering his child support expenses when determining his eligibility for MA benefits.

The Department's representative testified that she was uncertain whether child support benefits were an allowable expense for the purposes of determining eligibility for MA benefits.

This Administrative Law Judge is unable to determine if the Department properly determined the Claimant's eligibility for MA benefits, because the Department failed to present any evidence or testimony towards meeting its burden of proof that its actions were proper.

DECISION AND ORDER

(1) Claimant's hearing request is **HEREBY DISMISSED**, because there is no jurisdiction to review the termination of his FAP benefits on January 1, 2010.

(2) The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the

Claimant's eligibility for MA benefits effective June 1, 2010. Accordingly, the Department's MA eligibility determination is REVERSED. It is further ORDERED that the Department shall initiate a redetermination of the Claimant's eligibility for MA benefits as of June 1, 2010.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 30, 2010

Date Mailed: July 1, 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/vc

cc:

