

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.: 2010-42696
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 27, 2010
Macomb County DHS (12)

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 held in Clinton Township, on Wednesday, October 27, 2010. The Claimant appeared, along with [REDACTED] and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Department properly processed the Claimant's Medical Assistance ("MA-P") application?
2. Whether the Department properly calculated the Claimant's Food Assistance ("FAP") monthly benefit?

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 a FAP recipient.
2. The Claimant received earnings from employment for the period from (in part) April 2010 through August 13, 2010. (Exhibit 1)
3. The Claimant pays \$800.00 month for shelter and is responsible for utilities.
4. The Claimant's group size is 1.

5. On May 28, 2010, the Claimant submitted an application for public assistance seeking Medical Assistance (“MA-P”) benefits.
6. The Claimant received \$200.00/month in FAP benefits in April, June and September 2010. (Exhibit 2)
7. The Claimant received \$10.00/month in FAP benefits in May 2010. (Exhibit 2)
8. The Claimant received \$16.00/month in FAP benefits in July and August 2010. (Exhibit 2)
9. The Department processed the Claimant’s MA application under the AMP program.
10. As a result, the Claimant’s MA application was denied because the AMP program was closed.
11. On June 29, 2010, the Department received the Claimant’s written request for hearing protesting the MA denial and the FAP benefit amount.

CONCLUSIONS OF LAW

In this case, the Claimant protested the calculation of the FAP benefits as well as the denial of the MA benefits. Each program will be addressed separately.

FAP calculation

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 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”).

For FAP purposes, all countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. BEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. BEM 500 Changes are acted upon within 10 days after the Department is aware of the change. BAM 220 FAP budgets are completed when the Department is made aware of or the client reports a change that

will affect eligibility or benefit level. BEM 556 Shelter expense is an allowable expense and includes rent payments. BEM 554 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554 Clients are not eligible for the Heat and Utility Standard when heat is included in the rent payment unless the client is billed for excess heat payments from the landlord, or the client reports that they have received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address. BEM 554

In this case, the Department included the Claimant's earnings from employment when determining FAP eligibility. The Claimant's shelter obligation and the Heat and Utility Standard were also used in the calculation. Despite the Claimant's relatively stable earned income, the FAP benefits reduced from \$200.00 month in April to \$10.00 month in May; back up to \$200.00 in June; down to \$16.00 in July/August; and back up to \$200.00 in September/October. In April 2010, the Claimant had earnings however no earnings were budgeted. In May, June, and September 2010, the Claimant was given an earned income deduction which was not included in July and August. Further, in August 2010, the Claimant lost her employment thus earned just over \$500.00. The Department budgeted \$1,268.00 for that month. In light of the discrepancies, the Department's FAP calculations are not upheld.

MA application

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services ("DHS"), formerly known as the Family Independence Agency, pursuant to MCL 400.10, *et seq* and MCL 400.105. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

The Adult Medical Program ("AMP") is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10 *et seq*. Department policies are contained in the BAM, BEM, and the BRM.

The Claimant submitted an application for public assistance seeking MA based on disability ("MA-P") on May 28, 2010. Instead of processing the application under the MA-P program, the Department processed the application under the AMP benefit program. The AMP program was closed at the time of application thus the Claimant's application was denied. Under these facts, the Department's failure to process the Claimant's MA application under the MA-P program as requested is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's FAP calculations are not upheld.
2. The Department shall recalculate the Claimant's monthly FAP benefit amount for the months of April 2010 through October 2010 and notify the Claimant and her representative of the determination in accordance with policy.
3. The Department shall supplement for lost benefits (if any) that the Claimant was otherwise eligible and qualified to receive in accordance with Department policy.
4. The Department's MA determination is not upheld.
5. The Department shall re-open and process the Claimant's May 2010 MA application under the MA-P program in accordance with department policy.
6. The Department shall notify the Claimant and her authorized representative of the determination in accordance with department policy.

Colleen M. Mamelka

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

Date Signed: 11/03/2010

Date Mailed: 11/03/2010

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

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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.

CMM/jlg

cc:

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