

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.: 2010-6646
Issue No.: 1017, 2015,
3015, 3016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 11, 2010
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 11, 2010. The Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS properly decreased Claimant's Food Assistance Program (FAP) benefits?
2. Whether DHS properly denied Claimant's Family Independence Program (FIP) benefits?
3. Whether DHS properly calculated Claimant's medical deduction?

4. Whether DHS properly took no action regarding Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Claimant's son, [REDACTED], is currently a full-time student.
2. Claimant's husband, [REDACTED], receives Social Security income of \$946 per month.
3. Claimant's husband pays monthly child support payments of \$387 and monthly child support arrearage payments of \$165.50 out of his Social Security income.
4. On October 1, 2009, Claimant's monthly FAP benefits of \$668 were reduced to \$526.
5. Claimant was denied FIP benefits based on an income calculation which included \$946 unearned income from Claimant's husband.
6. Claimant's MA benefits have not been determined at this time because her Application is pending with the Medical Review Team (MRT).
7. Claimant was notified of a decrease in FAP benefits, a denial of FIP benefits, and that her MA benefits Application was still pending at MRT, on September 18, 2009.
8. Claimant requested a hearing by written Notice to DHS on October 14, 2009.
9. The recoupment information in the file, indicating \$52 per month is owed by the Claimant from October 1, 2008-June 12, 2009, is not correct and the information is a result of agency error.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA or Medicaid) program was established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers MA pursuant to MCL 400.1 *et seq.*, and MCL 400.105. DHS policies are found in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM).

In this case, DHS decreased Claimant's FAP benefits based on the full-time student status of a group member and the excess unearned income of another group member, it denied FIP benefits based on excess unearned income, and took no action on Claimant's Application for MA benefits pending a determination from the MRT. Claimant also asserts that DHS used the incorrect medical deduction for FAP benefit calculation purposes.

With regard to countable income, the parties reached an agreement whereby DHS agrees to reduce Claimant's countable income by the amount of her husband's court-ordered child support and arrearage payments. BEM 554, p. 1. Since the parties have come to a settlement agreement on this issue, it is unnecessary for the Administrative Law Judge to make a decision regarding this issue.

With regard to the appropriate medical deduction, BEM 554 states that "Medical expenses for the SDV member(s) [senior, disabled and disabled veteran] that exceed \$35" can be countable as deductions. Claimant's Medicare Part B insurance premium is \$96.40. The first \$35 is not allowable as a medical expense; however, the remaining \$61.40 is allowable. BEM 554, pp. 1, 8. DHS used this amount in its FAP calculation, rounded down to \$61 as required by BEM 556, p. 3. Therefore, DHS' medical deduction is correct and DHS is AFFIRMED as to this calculation.

BEM 245 states that a full-time student must also fulfill one of ten additional requirements in order to receive FAP benefits. These include, but are not limited to, being physically or mentally unfit for employment, receiving FIP benefits, and being employed for at least twenty hours per week at a wage-producing job. BEM 245, pp. 3-4. With regard to the reduction of the group from four persons to three persons, as Zachary Kelly does not meet the BAM 245 requirements he is ineligible and DHS' exclusion of him from the benefit group is AFFIRMED.

Regarding MA, Claimant understands that her Application is awaiting a decision from MRT and neither DHS nor the Administrative Law Judge can act at this time. Accordingly, Claimant's MA claim is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS and Claimant have come to a settlement regarding Claimant's request for a hearing regarding a reduction of the group unearned Social Security income to include court-ordered child support obligations. Therefore, it is ORDERED that DHS recalculate Claimant's income to determine Claimant's eligibility for FAP and FIP, and the appropriate benefit amounts. The DHS determinations of the appropriate medical deduction, and the exclusion of Zachary Kelly as a full-time student, are AFFIRMED. Claimant's MA request for benefits is premature and is DISMISSED pending action by MRT.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2010

Date Mailed: March 23, 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.

JL/mf

cc:

