

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201111663
Issue No: 2026, 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date: January 26, 2011
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on January 26, 2011. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine Claimant's Medical Assistance (MA) eligibility?

Did the Department of Human Services determine the proper amount of Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Medical Assistance (MA) and Food Assistance Program (FAP) benefits.
- (2) On November 23, 2010 Unemployment Compensation Benefits (UCB) which Claimant began receiving was included in her financial eligibility budgets. Claimant was sent a Notice of Case Action (DHS-1605) which stated she was now eligible for [REDACTED] of Food Assistance Program (FAP) benefits and Medical Assistance (MA) as a [REDACTED] deductible.
- (3) On December 7, 2010 Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

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) and the Program Reference Manual (PRM).

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 (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) and the Program Reference Manual (PRM).

In this case Claimant's benefit group includes her husband who pays child support for persons not in this benefit group. Claimant did not dispute the income amounts used in the financial eligibility budget. The primary concern Claimant raised was that the child support being paid out of the household was not fully reflected in the financial eligibility budgets. With regard to Medical Assistance (MA) withholding of any child support is included in the gross income and does not reduce the income used to determine eligibility. (BEM 500 page 3) Child support is an allowable expense for Food Assistance Program (FAP) eligibility. The Department representative submitted a Friend of the Court listing of Current Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 554 FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP. Bridges uses certain expenses to determine net income for FAP eligibility and benefit levels.

CHILD SUPPORT EXPENSES

The following child support expenses are allowed:

- The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.

- Court-ordered third party payments (landlord or utility company) on behalf of a non-household member.

- Legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Do not allow more than the legal obligation if the client is up-to-date on their child support payments. However, if they are behind and making arrearage payments, allow the total amount paid even if it exceeds the court-ordered amount. Current and arrearage child support expenses must be paid to be allowed.

The last paragraph was changed effective January 1, 2011. At the time of this Department action the last paragraph stated.

Never allow more than the household's legal obligation. The child-support expense must be paid to be allowed.

The Food Assistance Program (FAP) financial eligibility budget in this case shows [REDACTED] for the child support expense. The Friend of the Court data and BRIDGES support expense for [REDACTED] shows he has court ordered child support for two children outside Claimant's benefit group, [REDACTED] per month for one child and [REDACTED] per month for a different child. The three month average of [REDACTED] ordered and arrearage payments totals [REDACTED]. Examination of the Food Assistance Program (FAP) financial eligibility budget shows that only the ordered amount of payments was used.

Department policy clearly states that court ordered and arrearages paid are allowable expenses. Concern was raised about the language in the last paragraph of the section. The limit in both the previous and current policy is stated as the "household's legal obligation." The legal obligation of child support is the ordered amount time the months the order has been in effect. Any payments not made on time are still legal obligation and become arrearage. The new language is intended to clarify legal obligation. If the payer is up to date there is no arrearage and any voluntary payment above the ordered amount is NOT allowed as an expense. The new language goes on to describe that arrearage payments made causing the total payment to be more than the court ordered amount are still allowable expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly determined Claimant's Medical Assistance (MA) eligibility.

It is ORDERED that the actions of the Department of Human Services, regarding Claimant's Medical Assistance (MA) eligibility, are UPHeld.

It is also decided that the Department of Human Services DID NOT determine the proper amount of Claimant's Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, regarding Claimant's Food Assistance Program (FAP), are REVERSED.

It is further ORDERED that Claimant's Food Assistance Program (FAP) eligibility be redetermined and all allowable child support expenses be included in the determinations. Claimant shall be supplemented any benefits she did not receive as a result of the incorrect calculation of her eligibility.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 9, 2011

Date Mailed: February 10, 2011

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.

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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.

GFH/vc

cc:

