

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201411626
Issue No.: 2001, 3000, 6000
Case No.: [REDACTED]
Hearing Date: December 17, 2013
County: Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's benefits group composition for Medical Assistance (M.A.) 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. The Claimant is an ongoing Medical Assistance (M.A.) recipient.
2. The Claimant's ex-husband resides in her household for a portion of each month and for the remainder of the month his status fits the definition of a temporary absence.
3. The Department determined that the earned income of the ex-husband is countable towards their children's Medical Assistance (M.A.) but it not countable towards the Claimant's Medical Assistance (M.A.) benefits.
4. The Department received the Claimant's request for a hearing on November 1, 2013, protesting the composition of her benefit group composition for Medical Assistance (M.A.), Food Assistance Program (FAP), and Child Development and Care (CDC) benefits.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 t o 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

On September 12, 2013, the Michigan Administrative Hearing System (MAHS) issued a decision and order affirming the Department's determination that the Claimant is not eligible for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits due to excess income after including the income of the Claimant's ex-husband in its determination. This previous decision is a final decision unless a rehearing, reconsideration, or appeal to circuit court is requested. The Claimant has not reapplied for Food Assistance Program (FAP) or Child Development and Care (CDC) benefits since that hearing was conducted.

Therefore, this Administrative Law Judge has no jurisdiction to hear or decide upon the Claimant's grievances with respect to the Food Assistance Program (FAP) and Child Development and Care (CDC) programs. The Claimant's hearing request is DISMISSED with respect to these programs only.

Living with others means sharing a home where family members usually sleep, except for temporary absences. A temporarily absent person is considered in the home. A person's absence is temporary if for the month being tested his location is known, there is a definite plan for him to return, he lived with the group before the absence, and the absence did not last the entire month being tested. Department of Human Services Bridges Eligibility Manual (BEM) 211 (July 1, 2013), p 3.

The Claimant testified that her ex-husband was granted the right to remain in her husband following divorce proceedings but that he does not provide financial support to her or her children other than court ordered child support. The Claimant argued that his income, other than the child support he provides, should not be considered countable income for the purposes of determined Medical Assistance (M.A.) eligibility.

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This Administrative Law Judge finds that the Claimant's ex-husband is living with her in the household and time he spends away from the household fits the definition of a temporary absence.

A parent's income is considered in determining his/her child's eligibility for Medical Assistance (M.A.). BEM 211, p 5. Therefore, the Department properly determined that the income of the Claimant's ex-husband is countable for the purposes of determining his children's eligibility for Medical Assistance (M.A.).

The Department determined that the Claimant is no longer considered related to her ex-husband and determined that she is eligible for Medical Assistance (M.A.) as the caretaker of a minor child. The Department determined that there is no patient deductible on these benefits as of November 1, 2013.

The Claimant argued that the Department has not accurately determined expenses her ex-husband would be eligible to deduct from his income, but does not dispute that her ex-husband has failed to provide receipts to verify these expenses.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly determined the Claimant's benefit group composition for the purposes of determining Medical Assistance (M.A.) eligibility.

DECISION AND ORDER

The Claimant's hearing request is **DISMISSED** with respect to the Food Assistance Program (FAP) and Child Development and Care (CDC) program because this portion of the Claimant's hearing request falls outside the jurisdiction of this Administrative Law Judge.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Claimant's benefit group composition for Medical Assistance (M.A.) benefits.

Accordingly, the Department's decision is **AFFIRMED**.

Kevin



Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: December 23, 2013

Date Mailed: December 26, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

KS/hj

cc:

