

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.: 201356372
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 6, 2013
County: Livingston

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 August 6, 2013. Claimant appeared and testified. The Department was represented by AP [REDACTED].

ISSUE

Did the Department of Human Services properly determine Claimant's Medical Assistance (MA) coverage on June 11, 2013?

Did the Department of Human Services properly determine Claimant's Food Assistance Program (FAP) eligibility on June 11, 2013?

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 August 25, 2009, the 44th Circuit Court entered a Judgment of Divorce for Claimant. The Judgment ordered Claimant's ex-husband to pay Claimant non-modifiable, binding spousal support of [REDACTED], at a rate of [REDACTED] per month. The purpose of the support was to reimburse Claimant for a portion of a home equity loan they incurred as husband and wife.
- (3) On June 11, 2013, Claimant's eligibility was re-determined. The [REDACTED] which had not previously been included in Claimant's financial eligibility budgets was added. Claimant was sent a Notice of Case Action (DHS-1605) which stated her Medical Assistance (MA) was changed to a deductible and her Food Assistance Program (FAP) benefits were reduced.

3. On July 8 and 18, 2013, Claimant submitted requests 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 asserts that the [REDACTED] of spousal support should not be counted in determining her eligibility. Claimant bases her argument on the assertion that the payment was ordered as part of her divorce so that her ex-husband would be paying the home equity loan that she is legally liable for.

The Judgment of Divorce and a letter from Claimant's divorce attorney are in evidence. Both show that the purpose for the ordered spousal support is to make Claimant's ex-husband liable for payments on a loan which Claimant is legally liable for. The Judgment of Divorce orders the spousal support to be non-taxable. The Judgment of Divorce constitutes an order from the Judicial Branch of Michigan State government as allowed under state laws governing marriage and dissolution of marriage. However, the Judgment of Divorce does not order that the spousal support not be included in Claimant's eligibility determinations for public assistance.

Department of Human Services Department of Human Services Bridges Eligibility Manual (BEM) 503 Income, Unearned (2013) page 23 requires that the total amount of direct spousal support be counted as unearned income except any portion that is court-ordered or legally obligated directly to a creditor or service provider.

Department of Human Services Department of Human Services Bridges Eligibility Manual (BEM) 500 Income Overview (2013) page 8 provides:

THIRD PARTY ASSISTANCE

Payment of an individual's bills by a third party directly to the supplier using the third party's money is **not** income to the individual.

If the third party is paying the bill instead of paying money due the individual such as money owed for child support or owed on a loan, the payment is the individual's unearned income.

Exceptions: Exclude any portion of a payment that a court order or other legally binding agreement requires sending directly to an individual's creditor or service supplier.

Exclude voluntary spousal support used to pay the spouse's bill(s).

Example: Sally's ex-husband, Joe, pays Sally's rent. Joe uses his own money. Joe does **not** owe Sally any money. The payment is **not** income to Sally.

Example: Sally told her ex-husband it was all right to pay her rent instead of paying court-ordered spouse support to her. The payment is Sally's income.

The intent of the Circuit Court regarding Claimant's ex-husband and the home equity loan is clear. The Circuit Court did not express any intent regarding Claimant's eligibility for public assistance. The policy cited above provides clear instruction on how the payments from Claimant's ex-husband could be structured to avoid the payments being counted as unearned income by the Department of Human Services when determining Claimant's eligibility for public assistance.

An Administrative Law Judge conducting hearings on Department of Human Services' eligibility determinations has no jurisdiction or authority to expand an order from the Judicial Branch of Michigan State government as allowed under state laws governing marriage and dissolution of marriage. Modification of the Judgment of Divorce can only be done in the Court that issued the order.

The Department of Human Services' action in this case is in accordance with their policy and is a correct action.

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) coverage and Food Assistance Program (FAP) eligibility on June 11, 2013.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

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

Date Signed: 08/13/2013

Date Mailed: 08/14/2013

NOTICE: 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 receipt 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)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

GFH/sw

cc:

