STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:                                    Reg. No:     2008-28356
                                                     Issue No:    1018; 3008; 5008
                Claimant                             Case No:
                                                     Load No:
                                                     Hearing Date:
                                                     March 19, 2009
                                                     Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on March 19, 2009. The claimant personally appeared and testified.

ISSUES

Did the department properly determine the claimant had excess income for Food Assistance Program (FAP) benefits and deny her Family Independence Program (FIP) and State Emergency Relief (SER) program applications due to failure to return verifications in July, 2008?

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 applied for FAP, FIP, SER and Medical Assistance (MA) on June 30, 2008 (Department Exhibit #3).

2.      The claimant was interviewed in-person on June 30, 2008, and given a

Verification Checklist (DHS-3503) requiring her to turn in current bank statements, records of

assets, a completed Verification of Employment Income (DHS-38) form, paycheck stubs for the

last 30 days and a police report or Child Protective Services (CPS) worker documentation of her

daughter's sexual assault case.  These items were to be returned to the department by

July 10, 2008 (Department Exhibit #2).

3.      The claimant indicated in her application that she was working for ComforCare

Senior Service as a caregiver (Department Exhibit #3).

4.      The claimant did provide four weeks of paycheck stubs, for the two-week periods

ending June 8 and June 22, 2008 (Department Exhibit #4).

5.      The department did not receive the DHS-38 Verification of Employment Income

back from the claimant.

6.      The department denied the claimant's SER and FIP application for failure to

return the employment verification (Department Exhibit 5A and B).

7.      The department budgeted the claimant's FAP benefits to include her average

monthly income using the paycheck stubs the claimant provided.  This resulted in excess income

for any FAP benefits (Department Exhibit 5B).

<u>CONCLUSIONS OF LAW</u>

The Family Independence  Program (FIP) was established  pursuant to  the Personal

Responsibility and Work Opportunity Reconciliation  Act of 1996, Public Law 104-193,

8 USC 601, *et seq.*  The Department of Human Services (DHS or department) administers the

FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131.  The FIP program

replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.  Department

policies are found in the Program Administrative Manual (PAM), the Program Eligibility

Manual (PEM) 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 Program

Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program

Reference Manual (PRM).

The State Emergency Relief (SER) program is established by 2004 PA 344.  The SER

program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed

with the Secretary of State on October 28, 1993.  MAC R 400.7001-400.7049.  Department of

Human Services (DHS or department) policies are found in the State Emergency Relief Manual

(SER).

Department policy states:

**DEPARTMENT POLICY**

State Emergency Relief (SER) prevents serious harm to individuals
and families.  SER assists applicants with safe, decent, affordable
housing and other essential needs when an emergency situation
arises.  ERM, Item 101, p. 1.

**Requirements**

Residence in the State of Michigan is not required.  SER serves all
persons physically present in Michigan.   In addition, SER
applicants must:

.        Complete the application process

.        Meet financial and non-financial requirements

.      Have an emergency which threatens health or safety and can be resolved through issuance of SER

.      Take action within their ability to help themselves, i.e., obtain potential resources and/or apply for assistance

.      Not have caused the emergency (ERM, 204, Client-Caused Emergency)

.      Cooperate in providing information about income, assets, living arrangements, and other persons living in the home

Deny SER services for applicants who fail to meet any of the above requirements. ERM, Item 101, p. 1.

**Applicant Responsibilities**

Applicants must cooperate in the following:

.      The application process
.      Providing verifications
.      Answering all questions truthfully and completely whether written or oral

Deny SER if applicants refuse to take action, provide information within their ability, or withdraw their application. ERM, Item 102, p. 1.

**Verification**

Effective December 5, 2005, clients must be told what verification is required, how to obtain it, and the **due date of 8 days** beginning with the date of application. Use the DHS-3503, Verification Checklist, to request verification.

The client must make a reasonable effort to obtain required verification, but the specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. ERM, Item 103, p. 4.

**CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES**

**Responsibility to Cooperate**

**All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

**Refusal to Cooperate Penalties**

**All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

**Obtaining Verification**

**All Programs**

Tell the client what verification is required, how to obtain it, and the due date (see "Timeliness Standards" in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

**Timeliness Standards**

**All Programs (except TMAP)**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

Send a negative action notice when:

.    the client indicates refusal to provide a verification, **or**
.    the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

**MA Only**

Send a negative action notice when:

.    the client indicates refusal to provide a verification, **or**
.    the time period given has elapsed. PAM, Item 130, p. 4.

**Wages**

**All Programs**

**Wages** are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

*Exception:* Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- "EIC"
- "Flexible Benefits"
- "Strikers"
- "Student's Earnings"

PEM, Item 500, p. 15.

**VERIFICATION REQUIREMENTS**

**All Programs Except Healthy Kids**

Verify countable income:

- at application, prior to authorizing benefits, and
- at redetermination, and
- when program policy requires a change be budgeted.

*Exception:* For FIP, SDA, CDC and FAP verify, changes that result in a benefit increase or when the change information is unclear, inconsistent or questionable.

The client has primary responsibility for obtaining verification. You cannot deny assistance just because an employer or other

source refuses to verify income. See PAM 130 and PEM 702. PEM, Item 500, pp. 37-38.

**Healthy Kids**

Income is NOT verified at application, redetermination or change. PEM, Item 500, p. 38.

**VERIFICATION SOURCES**

**All Programs**

Verification may be from the following:

- Documents (example: pay stubs or award notice)

- Written statements from persons with knowledge of the income (example: employer or issuing agency)

- Automated Find and Fix Inquiry (AFF)

You may verify most unearned income by written statement from the agency, organization or person administering the payment. The verification must confirm the gross amount for a month.

Accept an award notice dated within the past 60 days if there is no reason to suspect the amount has changed. PEM, Item 500, pp. 38-39.

**PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING**

**DEPARTMENT PHILOSOPHY**

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

**DEPARTMENT POLICY**

**FIP, SDA, CDC and FAP**

A group's financial eligibility and monthly benefit amount are determined using:

. actual income (income that was already received), and/or
. prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

The claimant went into the local DHS office and applied for FIP, FAP and SER on June 30, 2008. At that time, the claimant was given a Verification Checklist (DHS-3503) requesting a completed Verification of Employment Income (DHS-38), paycheck stubs for the last 30 days, current bank statements and a police report or documentation from the CPS worker. The due date to return these documents was July 10, 2008. The claimant did turn in paycheck stubs. However, no police report or CPS worker documentation and no Verification of Employment Income (DHS-38) were received by the department. The claimant testified that she thought she had turned in the police report and that she had turned in the Verification of Employment Income (DHS-38) to her employer and the employer must not have returned it to DHS.

Departmental policy requires the department to verify countable income at application prior to authorizing benefits. PEM 500. The claimant testified that she took a temporary leave of absence from work due to her daughter's sexual assault at the time she applied for benefits. The claimant had earned income in the 30 days prior to the application and had reported she was still working on the Assistance Application (DHS-1171). Thus, the department issued the claimant a Verification of Employment Income (DHS-38) to verify the claimant had stopped

working. The claimant did not return the Verification of Employment Income (DHS-38). Therefore, the department had no way to verify the claimant had stopped her employment with ComforCare Senior Service.

The department budgeted the FAP case with the verified information the claimant did provide. This included paycheck stubs for the last 30 days. The department averaged this income for a total of $███ in earnings. This was excess income for the claimant to receive FAP benefits.

Both the SER program and the FIP program have income limits. Thus, the department must have accurate figures of the claimant's income. Departmental policy requires claimants to provide the requested verifications by the due dates or request help from the department. PAM 105. The claimant did not turn in the requested verifications by the due date of July 10, 2008. The only verification the department received was the paycheck stubs. The department did not receive any requests for help from the claimant. Therefore, because the verifications were not turned in by the claimant, the claimant's application for FIP and SER was denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimant had excess income for FAP and properly denied the claimant's application for FIP and SER due to the claimant's failure to provide the required verifications.

Accordingly, the department's actions are AFFIRMED.  SO ORDERED.


/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: _March 25, 2009

Date Mailed: _March 26, 2009

**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.

SLK/█

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