

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: 2008-23421
Issue No: 3008; 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 15, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jana B. Bachman

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 January 15, 2009.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Medical Assistance (MA) and 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) During May 2007, claimant was a recipient of [REDACTED] benefits. The department received notice via a Wage Match report that claimant had increased earnings from

January 1, 2008 through March 31, 2008 that were not reported to the department.

Department A.

(2) May 7, 2008, the department sent claimant a Verification Checklist (DHS-3503) indicating that claimant must obtain a completed Verification of Income form (DHS-38) and return to the department no later than May 19, 2008. Department A.

(3) May 19, 2008, the department sent claimant written notice that her [REDACTED] benefits would terminate on May 31, 2007 as claimant had not returned the completed form. Department A.

CONCLUSIONS OF LAW

Department manuals provide the following policy statements and instructions for caseworkers:

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 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).

Timeliness of Verifications

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.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (e.g., fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

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.

MA Only

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed.

Program Administrative Manual (PAM) 130

MA

42 CFR 435.913(a)
42 CFR 435.916(b)
MCL 400.37

Public Law 109-171

FAP

7 CFR 273.2(f)

Income

Count all income that is NOT specifically excluded.

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.

Program Eligibility Manual (PEM) 500

MA

Social Security Act Sections 1902(a)(10), 1931
42 CFR 435, Subparts H and I
MCL 400.106

FAP

7 CFR 273.9
P. L. 101-508, Section 5105(a)(3)
P. L. 108-447

Cooperation

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

All Programs

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days:

- After the client is aware of them, or
- The start date of employment.

Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than 5 hours per week that is expected to continue for more than one month.

Exception #1: For Medicaid, clients must report a change in gross monthly income of more than \$25 since the last reported change.

PAM 105

MA

42 CFR 431, 435
MCL 400.60(2)

FAP

7 CFR 271.6(a)
7 CFR 272.6(a),(b)
7 CFR 273.2(d)
7 CFR 275.12(g)

In this case, the department received computer notice that claimant had increased income she had not reported. A verification form was sent to claimant with a ten day deadline for return. When the form was not received, the department sent claimant timely notice that her assistance would be terminated. Finding of Fact 1-3. At hearing, claimant and department testified that after case closure, during June 2008, claimant contacted the department to report that she had moved in January 2008, but had not reported it to the department and so did not receive the request for verification. Claimant's failure to timely report changed address resulted in return of

her mail to the department and her subsequent case closure. As such, the department properly proposed to terminate her benefits and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance and Food Assistance Program benefits.

Accordingly, the department's action is **HEREBY UPHELD**.

/s/ _____
Jana B. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 6, 2009

Date Mailed: February 10, 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 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.

JBB

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.

Administrative Hearings (2)