

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: 2008-30300
Issue No: 1005; 2006; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 28, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Detroit, Michigan on January 28, 2009. The Claimant appeared and testified. Phyllis Cooper appeared on behalf of the Department.

ISSUE

Whether the Claimant failed to cooperate with the Department resulting in the closure of the Claimant's FIP, FAP, and MA benefits effective July 29, 2008.

FINDINGS OF FACT

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

1. The Claimant was a FIP, FAP, and MA recipient.
2. In July 2008, the Claimant's name appeared on a New Hire Report indicating that the Claimant was recently hired. (Exhibit 1)

3. In response, the Department requested verification of the new employment.

4. On or about July 17, 2008, the Claimant's FIP and FIP-related MA benefits were pending for closure effective July 29, 2008.

5. The Claimant received the verification request and contacted the Department stating that she was hired but never actually worked.

6. The Claimant was instructed to sign and submit the verification noting on the form that she had never worked.

7. The Claimant complied and mailed in the form.

8. The Claimant's FIP and MA benefits terminated effective July 29, 2008.

(Exhibit 3)

9. The Claimant's FAP benefits remained open.

10. Subsequently, the Claimant's name again appeared on the New Hire Report.

(Exhibit 1)

11. In response, on August 12, 2008, the Department mailed an employment verification to the Claimant. (Exhibit 3)

12. The Claimant contacted the Department stating that she had never worked thus had no earnings to report.

13. The Claimant signed the verification and brought it to the local office.

14. On August 26, 2008, the Claimant requested childcare benefits be added to her case so she could attend school but was informed that her case (including the FAP benefits) had closed.

15. The Claimant's FAP benefits terminated effective September 2008. (Exhibit 2)

16. On August 26, 2008, the Department received the Claimant's written hearing request, protesting the termination of her FIP, FAP, and MA benefits.

CONCLUSIONS OF LAW

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 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).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. PEM 500. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500. A negative action notice is sent when a client indicates a refusal to provide a verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. PAM 130, pp. 4, 5. For MA purposes, only adequate notice is required for an application denial whereas timely notice is required to reduce or terminate benefits. PAM 130, p 4.

In the record presented, the Department, in response to a New Hire Report, requested the Claimant provide verification of employment. The Claimant timely contacted the Department stating that although she was initially hired, she never actually worked. The Claimant mailed in verification stating the same, however, the cash assistance benefits were terminated resulting in the closure of the MA benefits. Similarly, the Claimant brought in a second employment verification to the local office as requested but the Claimant's FAP benefits terminated. There was no evidence to establish that the Claimant had refused to cooperate. Under this scenario, there was insufficient evidence presented to establish that the Department acted in accordance with policy when it terminated the Claimant's FIP, FAP, and MA benefits. Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly terminated the Claimant's FIP, FAP, and MA benefits.

Accordingly, it is held:

1. The Department's determination to terminate the Claimant's FIP and MA benefits effective July 29, 2008 is REVERSED.
2. The Department shall reopen the Claimant's FIP and MA case from the date of closure (July 29, 2008) and supplement the Claimant for any lost benefits the Claimant was otherwise eligible and qualified to receive in accordance with department policy.
3. The Department's determination to terminate the Claimant's FAP benefits effective September 2008 is REVERSED.
4. The Department shall reopen the Claimant's FAP case from the date of closure and supplement the Claimant for any lost benefits the Claimant was otherwise entitled to receive in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 29, 2009

Date Mailed: February 4, 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.

CMM

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