

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: 2008-5439  
Issue No: 2013; 1017; 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
February 6, 2008  
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. 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 February 6, 2008.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) 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) October 23, 2007, claimant applied for MA, FAP and FIP. October 24, 2007, the department sent claimant a Verification Checklist (DHS-3503) indicating a need for proof of all

self employment income and expenses for claimant and other household members. The due date was set at November 5, 2007. Department A, page 10.

(2) November 21, 2007, the department prepared a FAP budget. Countable earned income of [REDACTED] was included ([REDACTED] proceeds less 25% self employment expenses). Standard 20% of countable earnings was excluded. [REDACTED] standard deduction was taken leaving total countable income of [REDACTED]. Rent expense of [REDACTED] was included, as well as standard heat/utility/telephone expense of [REDACTED] making total allowable shelter expenses of [REDACTED]. Total allowable shelter exceeded 50% of countable income and so excess shelter deduction of [REDACTED] was included. After all allowable expenses and deductions were included, claimant had countable net FAP income of [REDACTED]. A group of 3 living in Calhoun county with income of [REDACTED] is eligible for a monthly FAP benefit of [REDACTED]. Department A, pages 32-46.

(3) November 21, 2007, the department prepared an MA budget. Countable earnings of [REDACTED] were included ([REDACTED] proceeds less 25% standard self employment business expenses). A standard [REDACTED] work expense deduction was included leaving total countable income of [REDACTED]. Through a standard formula, income was allocated to other household members. After all allowable deductions and expenses were included, claimant had countable MA income of [REDACTED]. Standard MA need for claimant was [REDACTED] leaving excess income and monthly deductible of [REDACTED]. Department A, pages 21-24.

(4) November 8, 2007, the department prepared a FIP budget. Total countable FIP income was [REDACTED] ([REDACTED] proceeds less standard 25% self employment work expense). A standard [REDACTED] deduction was included, as well as 20% disregard, leaving countable FIP

earnings of [REDACTED]. Payment standard was [REDACTED]. Claimant had excess income to qualify. Department A, pages 11-12.

### 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).

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

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for Farm Loss amounts.

Allowable expenses are the higher of:

- 25% of the total proceeds, or
- Actual expenses if the client chooses to claim and verify the expenses.

Allowable expenses include:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do NOT allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below.

Do NOT deduct the following from self-employment income:

- Depreciation on equipment, real estate or other capital investments.
- A net loss from a previous period.

- Federal, state and local income taxes.
- Personal entertainment or other personal business expenses.
- Money set aside for retirement.

Verification of self employment income:

- Business receipts.
- Accounting or other business records.
- Income tax return.

#### PROGRAM ELIGIBILITY MANUAL (PEM) 500

##### FIP

MCL 400.1 et seq.

##### 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

Tell the client what verification is required, how to obtain it, and the due date. Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment.

Alien information, blindness, disability, incapacity, inability to declare one's residence and, for FIP only, pregnancy must be verified.

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.

Only adequate notice is required for an application denial. Timely notice is required to reduce or terminate benefits.

Program Administrative Manual (PAM) 130

LEGAL BASE

FIP

45 CFR 206.10(a)(2)(ii)  
45 CFR 233.10(a)(1)(ii)(B)  
MCL 400.37

MA

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

Public Law 109-171

FAP  
7 CFR 273.2(f)

In this case, department properly notified claimant of required proofs and set an appropriate deadline. The department properly determined claimant's countable income and expenses based on records supplied by claimant at application and her statement on her application for assistance. At hearing, claimant testified that she did not keep her business expense receipts, did not provide proofs for her business expenses, and sometimes commingled business income and expenses with personal income and expenses. Money in her bank account was designated to buy costumes for students that had not yet been purchased. Since claimant did not provide receipts, proofs, and records for her business within the time frame established on her Verification Checklist, the department properly based its self employment income figures on the best available evidence. As such, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-4.

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, Family Independence Program Assistance, and Food Assistance Program benefits.

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

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

Date Signed: September 2, 2009

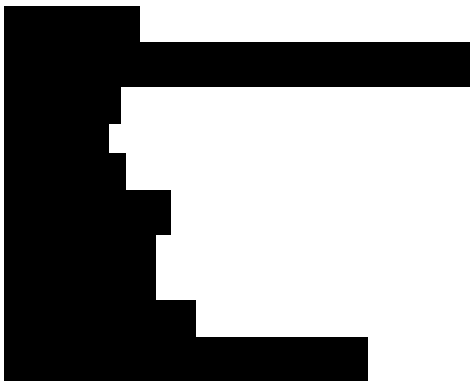
Date Mailed: September 3, 2009

**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.

JAB/db

cc:

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