

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: 2009-10099

Issue No: 1005, 1015

Case No:

Load No:

Hearing Date:

May 7, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on May 7, 2009.

ISSUE

Whether the Department properly computed Claimant's Family Independence Program ("FIP") benefits?

FINDINGS OF FACT

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

- (1) Claimant is a FIP recipient.
- (2) On or about September 30, 2008, Claimant met with the Department for a review and submitted a [REDACTED] [REDACTED] which stated that she began employment on July 27, 2008 and was working

approximately 20 hours per week at \$8/hr. (Exhibit 1) The Department contacted Claimant's supervisor, [REDACTED], and verified that Claimant did not receive her 1st check until October 3, 2008.

(3) On October 17, 2009, the Department completed a FIP budget based on Claimant working 20 hours per week at the rate of [REDACTED] which resulted in the Claimant's monthly FIP allotment being reduced from [REDACTED] 0 to [REDACTED] effective November 1, 2008. (Exhibit 2a, 2b)

(4) On October 17, 2008, the Department sent Claimant an Eligibility Notice which explained the reduction of Claimant's monthly FIP benefits. (Exhibit 2c)

(5) Claimant then reported to the Department that she was working less than 20 hours per week. The Department requested that Claimant provide verification from her employer. Claimant returned Verification of Employment forms to the Department on November 26, 2008 (along with earnings statements for 10/3/08 and 11/14/08 – Exhibits 4a,4b) and December 19, 2008. (Exhibits 3a, 3b, 5a, 5b)

(6) Claimant was informed by the Department after she turned in the December 19, 2008 form that she needed to have her employer complete and resign a Verification of Employment form and return the original for its consideration.

(7) On December 19, 2008, the Department received the Claimant's hearing request protesting the reduction of her FIP 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).

For FIP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI and SSI. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

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 A collateral contact is a direct contact with a person,

organization of agency to verify information from the client. PAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130, p. 2 Client's are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4 Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. PAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. PAM 600, p. 11 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

In the instant case, I do not find that the Department established that it acted in accordance with policy in computing the Claimant's FIP allotment. I agree that the December 19, 2008 Verification of Employment did not constitute proper verification. Claimant testified that she filled out the form and showed the new information to [REDACTED], but he did not fill out Section 6 and sign it again because he did not need to. Instead, Claimant sent the Department the new first page and the 2nd page that [REDACTED] had signed back on November 24, 2008. Clearly, this is not acceptable verification.

However, it does not appear to me that the December 19, 2008 verification was necessary and, therefore, the fact that it was unacceptable is moot. The Department completed a budget on October 17, 2008 based on Claimant working approximately 20 hours per week at [REDACTED]. Claimant received notice that her FIP benefits were going to be

reduced significantly and she informed the Department that she was working less than 20 hours per week.

The Department testified that it did not act on the November 26, 2008 Verification of Employment because no change was warranted based on the information contained therein. However, it was. Even though she initially reported that she was working approximately 20 hours PER WEEK, there is no evidence that she ever did so other than the initial disclosure. Claimant wrote on the November 26, 2008 Verification signed by her employer that the “Number of hours expected to work” was 20 and that she received 5-10 hours per week and 15-20 per pay period. Claimant wrote her “Estimated Work Schedule” was 10-3 on Monday, Tuesday and Wednesday which is 15 hours per week or 30 hours per period.

The November 26, 2008 Verification of Employment was accompanied by two earnings statements. The 1st earnings statement covered the pay period of September 20, 2008 to October 3, 2008 with a pay date of October 3, 2008. The check was for [REDACTED]. The 2nd earnings statement was for pay period November 1, 2008 to November 14, 2008 with a pay date of November 14, 2008. The check was for [REDACTED]. Claimant’s testimony was somewhat inconsistent about whether she provided the October 17th and 31st earnings statement to the Department and the Department testified that she did not. However, the November 14th earnings statement contains a gross pay year to date of [REDACTED]. That means that Claimant made [REDACTED] over this 2 earnings statement, 4 week period. At the end of the day, Claimant only worked [REDACTED] during the [REDACTED]

starting September 20, 2008 and ending November 14, 2008 which is only [REDACTED] week, far short of [REDACTED]. Claimant provided proper verification on November 26, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not act in accordance with policy in computing Claimant's FIP benefits.

Accordingly, the Department's FIP eligibility determination is REVERSED and IT IS SO ORDERED.

(1) The Department shall complete a new FIP budget based on the information contained in the Verification of Employment and earnings statements provided to the Department on November 26, 2008 and issue Claimant any supplemental benefits that she may be entitled to thereafter.

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 13, 2009

Date Mailed: May 14, 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.

2009-10099/smb

SMB/db

cc:

