

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: 2009-10601
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 10, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 on March 10, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly compute the amount of Claimant's 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) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On September 2, 2008, a Verification of Employment (DHS Form 38) was completed for claimant by [REDACTED]. The Verification of Employment (DHS Form 38) indicated that claimant was permanently employed as a direct care worker, for

40 hours a week, Monday through Friday from 3:30 pm till 10:00 pm, at [REDACTED] per hour. The person who filled out the form identified themselves as a Residential Coordinator. The form did not provide an employer federal ID number.

(3) On September 15, 2008, claimant received [REDACTED] of Unemployment Compensation Benefits (UCB).

(4) On September 29, 2008, claimant received [REDACTED] of Unemployment Compensation Benefits (UCB).

(5) On November 13, 2008, claimant applied for Family Independence Program (FIP) benefits and was referred to the Work First/Jobs, Education and Training Program (JET). Claimant was given a Verification of Employment (DHS Form 38) to verify her employment status with [REDACTED]. Claimant verbally informed Work First she no longer worked at [REDACTED] but did not provide any verification from [REDACTED] to support that assertion.

(6) On November 24, 2008, claimant's Child Development and Care (CDC) benefits were adjusted based on assignment termination through [REDACTED].

(7) For the week ending November 29, 2008, claimant began receiving Unemployment Compensation Benefits (UCB) again under an extension. Claimant received [REDACTED] every two weeks. Claimant terminated participation in the Work First/Jobs, Education and Training Program (JET).

(8) On December 17, 2009, the department ran an updated financial eligibility budget for Claimant's Food Assistance Program (FAP) benefits. Since the department had never received verification from [REDACTED] that claimant was no longer employed there, income from the September 2, 2008, Verification of Employment (DHS Form 38) was included in the financial eligibility budget along with the Unemployment Compensation Benefits (UCB). Claimant was

sent a notice of case action that the reduced amount of benefits would be effective for January, 2009.

(9) On January 5, 2009, claimant submitted a request for hearing.

(10) On January 12, 2009, the department prepared the hearing packet and sent a copy to claimant. Claimant was also provided with another Verification of Employment (DHS Form 38) in order to verify her employment status with [REDACTED]

(11) On January 14, 2009, claimant returned the Verification of Employment (DHS Form 38). The form was not filled out. Claimant also provided a letter stating she was enclosing her first and last paycheck from [REDACTED]. Claimant submitted income information from a [REDACTED] which indicated she had worked two hours at [REDACTED] per hour in October, 2008. [REDACTED] has a different address from that listed for [REDACTED] on the September 2, 2008, Verification of Employment (DHS Form 38).

CONCLUSIONS OF LAW

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).

Claimant stated she requested a hearing because income from [REDACTED] should not have been included in her Food Assistance Program (FAP) financial eligibility budget of December 17, 2008. Claimant testified that she has provided sufficient proof of no longer working at [REDACTED] with the income information she presented from PBP Services, Inc.

Claimant asserts that the income from [REDACTED] is her income from [REDACTED]

Claimant testified that [REDACTED] contracts for [REDACTED]. It is noted that the addresses for the two entities are different.

When asked why she did not just have [REDACTED] fill out the Verification of Employment (DHS Form 38). Claimant testified she did not feel she had to keep going back to [REDACTED] and getting them to fill out paperwork for the department.

The department caseworker, [REDACTED] testified that she attempted to find employment information through the online "Work Number" system but [REDACTED] was not listed with that service.

Department policy provides the following guidance for case workers. The department's policies are available on the internet through the department's website.

PAM 130 VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. PEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If a client indicates he/she has a disability that impairs his/her ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information.

PEM 505 PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

WHEN TO COMPLETE A BUDGET FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- The Department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- A reported change results in the need to convert income to or from a standard monthly amount.

Income Decrease

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases.

Example 1: On 10/17, the client reports she will miss one week of work in November due to her son's surgery so will not receive a paycheck on 11/19. On 10/21, client returns required verifications. Complete a budget to increase November benefits, reflecting zero income for 11/19. Complete another budget for December, using a full month's income since the income change will only affect November.

Example 2: On 11/18, Jan reports there will be a permanent reduction in work hours starting 11/23. Verifications are returned 11/26. Complete a budget to affect December benefits.

If verification is required or deemed necessary, you must allow the household 10 days from the date the change is reported or the date you request verification to provide verification. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported.

Example 3: Using the previous example, you request verification on 11/25. Jan provides the verification on 12/2. You must make the change to affect December's benefits by issuing a supplement.

If necessary verification is not returned by the due date, put the case into negative action. If verification is returned late, but before case closure, you must act within 10 days from the date the verification is returned. The increase must affect no later than the first allotment issued 10 days after the date the verification was returned.

The totality of evidence regarding claimant's actions indicates deception, a lack of cooperation, and careful calculation to receive as much money as possible from the government with the least amount of effort. One possible explanation for the facts in this record are that claimant fraudulently represented employment at [REDACTED] or intentionally failed to report the loss of employment there, in order to receive Child Development and Care (CDC) benefits. The pay rate and hours of employment asserted at [REDACTED] would result in more Child Development and Care (CDC) benefits than were lost (due to income) in Food Assistance Program (FAP) benefits. The facts in this record raise suspicion that an Intentional Program Violation (IPV) may have occurred in claimant's Child Development and Care (CDC) case.

Department policy does support a requirement for verification of employment status when determining financial eligibility for Food Assistance Program (FAP) benefits. Department policy also supports closure of a Food Assistance Program (FAP) case if required verification is not provided.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly computed the amount of Claimant's Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 13, 2009

Date Mailed: March 16, 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 60 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.

GFH 

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