

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: 2009-15388

Issue No: 3019, 2018

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 13, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from [REDACTED] on April 13, 2009. The Claimant appeared and testified. Melinda Trawick, FIM and Jeannette Richie, Eligibility Specialist, appeared for the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case on 2/24/09.

FINDINGS OF FACT

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

1. The Claimant was a FAP & MA recipient.
2. The Department received information on 2/11/09 indicating that Claimant had earned income in the last quarter.

3. The Department testified that Claimant would have been issued a notice from Lansing regarding her unreported income. However, no evidence of any such notice was produced.
4. The Department testified that a negative action notice was issued 2/10/09 or 2/11/09.
5. Claimant testified that after talking to her caseworker on the telephone and realizing that her case was scheduled to close the next day, Claimant came into the local office to file a hearing request and also submit her proof of earnings.
6. Claimant testified that she submitted her proof of earnings on 2/23/09 by placing the paperwork in the drop-box at the local Department office.
7. Claimant testified that she tried to contact the Department by telephone to resolve this issue without success.
8. The Department closed Claimant's FAP & MA on February 24, 2009.
9. On February 23, 2009, the Department received the Claimant's hearing request protesting the closure of the FAP and MA benefits.
10. Claimant is currently receiving FAP and MA benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental 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 (formerly known as the Family Independence Agency) 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).

A group's earned income is considered in the award of benefits. 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 income. PAM 500 at p. 1. Both wages and unemployment compensation are countable income. PAM 518.

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In the record presented, Claimant testified credibly that she turned in her earned income verification paperwork timely. Giving the benefit of the doubt to the Department, however, and

assuming that Claimant did not drop her paperwork in the drop-box, the Department is still required to extend the time limit at least once to allow Claimant to comply. Claimant testified that she attempted to contact the department and her phone calls were not returned. The record reveals that Claimant did all that she could to resolve the issue before the closure date.

Based upon the foregoing facts and relevant law, it is found that there is no indication that the Claimant failed to comply with reporting earned income. Ultimately, it is found that the Department improperly closed the Claimant's FAP and MA benefits.

DECISION AND ORDER

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

Accordingly it is ORDERED:

1. The Department's 2/24/09 FAP and MA closure is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete the negative action of 2/10/09 or 2/11/09, and supplement the Claimant for any lost benefits she was otherwise entitled to receive.

/s/ _____
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/21/09

Date Mailed: 04/22/09

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.

JV/dj

cc:

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