

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.: 2009-19743
Issue No.: 1005; 3005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 27, 2009
Wayne County DHS (59)

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 the Claimant's request for a hearing. After due notice, a hearing was conducted from Detroit, Michigan on August 27, 2009. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] appeared on behalf of the Department.

ISSUES

1. Whether the Department properly closed the Claimant's Food Assistance ("FAP") and cash assistance ("FIP") benefits?
2. Whether the Department properly calculated the Claimant's FAP and FIP 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. The Claimant is a FIP and FAP recipient.

2. The Claimant's initial benefit period was from March 1, 2008 through February 28, 2009.
3. As part of the redetermination process, the Department sent the Claimant a Verification Checklist requesting the Claimant attend an interview on February 5, 2009 to determine continued eligibility. (Exhibit 1)
4. The Claimant failed to attend the interview.
5. The Claimant testified to bringing in some of the requested verifications in to the Department on or about February 9, 2009.
6. The Claimant's FAP benefits terminated effective February 28, 2009. (Exhibit 3)
7. On March 4, 2009, the Claimant's FIP benefits were pended for closure effective March 17, 2009 due to the failure to complete the yearly review process. (Exhibit 2)
8. On March 16, 2009, the Claimant submitted a new public assistance application. (Exhibit 3)
9. The Department calculated the Claimant's monthly FAP allotment as \$367.00 which was prorated for the month of March (effective date of application) as \$189.00. (Exhibits 3, 4)
10. The Claimant's group size is 3.
11. On March 31, 2009, the Department received the Claimant's written request for hearing. (Exhibit 6)

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 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, 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 PAM, PEM, and PRM.

The Department periodically re-evaluates cases to ensure that continued eligibility for benefits. PAM 210 Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130 The client must obtain the required verification, however, the Department must assist if needed and/or requested. PAM 105; PAM 130 Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130 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. PAM 130 Reducing a FAP group’s

benefit amount at redetermination is treated as a positive action since the change affects the new certification, not the current benefit period. PAM 220 Before determining eligibility, clients are provided a reasonable opportunity to resolve any discrepancy from statements made and information from another source. PAM 130

Group composition is the determination of which persons living together are included in the program group. PEM 210; PEM 212 The Department must determine who must be included in the group prior to evaluating the non-financial and financial eligibility of everyone in the group. *Id.* To establish FAP group composition, the Department must consider in part, who lives together and their relationship(s), and whether the people living together purchase and prepare food together or separately. PEM 212

FAP benefits

In this case, the Claimant failed to attend the yearly review interview. The Claimant asserted that verifications were brought in as requested prior to the closure date however the Claimant's FAP benefits terminated at the end of the benefit period. The Department processed the Claimant's new application effective March 16, 2009. In calculating the Claimant's FAP benefits, the Department incorrectly used a group size of 2 as opposed to a group size of 3. In light of the foregoing, it is found that the Department's actions are not upheld.

FIP benefits

The Department properly notified the Claimant of the negative action with respect to the Claimant's cash assistance. The Claimant received the FIP benefits for March and, as a result of the March 16, 2009 application, received FIP benefits for April resulting in

uninterrupted benefits. During the hearing, the Claimant voiced concerns regarding the implementation of a previously issued decision which ordered the Department to supplement the Claimant for FIP benefits purported not received from November of 2008. The Department's records show that the benefits were received and requested the Claimant complete an affidavit attesting to the fact that the benefits were not received. The Claimant failed to do so. The Department is willing to comply with the previous order but needs the affidavit to complete the process. Ultimately, although the Claimant's FIP benefits were pended for closure, in light of the March 16th application, there was not an interruption in benefits thus no error is found. Under this factual scenario, the Department's actions are AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determinations are affirmed in part/reversed in part.

Accordingly, it is ORDERED:

1. The Department's FAP determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP budget effective March 1, 2009 to reflect the proper group size of 3 in accordance with department policy.
3. The Department shall supplement the Claimant any lost FAP benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

4. The Department's FIP determination is AFFIRMED.

/s/

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

Date Signed: 09/03/09

Date Mailed: 09/03/09

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 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.

CMM/jlg

cc:

