

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: 2009-26305
Issue No: 3019, 2018
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 July 23, 2009. Claimant and his wife personally appeared and testified. The Department was represented by a family independence manager and an eligibility specialist.

ISSUE

Did the Department act properly in denying Claimant's application for Food Assistance Program (FAP) and Medical Assistance (MA) benefits on that he failed to provide requested verifications?

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 applied for FAP and MA benefits on May 14, 2009 for a group size of five.

- (2) The Department provided Claimant with verification checklists on May 14, 2009 and May 18, 2009, seeking certain documentation. (See Exhibit pg. 15 and 27). The verification checklist dated May 18, 2009 requested a completed DHS-38, Verification of Employment.
- (3) Claimant provided a copy to his employer and an incomplete employment verification form was returned to the Department.
- (4) In addition, the Department requested two copies of the transcript of Claimant's 2008 tax return. Claimant submitted copies of the tax return forms but not the transcript.
- (5) The Department also requested proof that five properties Claimant owned were in foreclosure. Claimant contends that he provided the Department with 1099s that prove the five properties are or was in foreclosure. Claimant did not state that he provided them to the Department before the deadline.
- (6) Claimant disagreed with the Department's decision to deny his application for FAP and MA on the grounds that (a) he provided the Department with a copy of his 2008 tax return and was unaware that the transcript was different from the tax return, (b) that the Department received his verification of employment and one paycheck stub and (c) that he returned proof that the five properties at issue were in foreclosure.
- (7) The Department received Claimant's hearing request on June 9, 2009.

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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

DEPARTMENT POLICY

All Programs

This item discusses income for:

- Family Independence Program (FIP).
- State Disability Assistance (SDA).
- Refugee Assistance Program (RAP) which if policy differs is divided into:
 - Refugee Assistance Program Cash (RAPC).

- Refugee Assistance Program Medical (RAPM).
- Child Development and Care (CDC).

Note: Applies to all CDC Income Eligible groups.

- Medicaid (MA) which, if policy differs, is divided into:
 - FIP-related MA.
 - SSI-related MA.
 - Specific MA categories.
- Adult Medical Program (AMP).
- TMA-Plus (TMAP).
- Food Assistance Program (FAP).

The phrase “All Programs” in this item means all the programs listed above.

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain program specific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if NOT paid directly such as income paid to a representative.

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. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount.

Exception: The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. (PEM 500 p. 1-2)

DEPARTMENT POLICY

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. (PAM 130, pg. 1)

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it and the due date (See "Timeliness Standards" in this item). (PAM 130, pg. 2).

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0373-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English.

The poster, DHS Publication 478, Help Is Available, must be displayed in the local office lobby. A section of the application form has the same title and information. These documents tell clients that DHS must help persons fill out the application when requested. (PAM 105, pg. 10)

Under PAM 130, when verification is sought, the client must be told "what verification is required, how to obtain it and the due date." In addition, under PAM 105, the Department has a responsibility to assist clients in obtaining verification when help is requested. Claimant did not ask the Department for assistance in obtaining his verification of employment. In addition, Claimant did not ask the Department for assistance in obtaining the transcript of his 2008 tax

returns. Therefore, the Department had no way of knowing that Claimant was confused or misunderstood the Department's request for his tax return transcripts or that he needed assistance obtaining his verification of employment. Under these circumstances, it is found that the Department acted properly in denying Claimant's application for MA and FAP on the grounds that the Department could not verify his income, which was necessary to make a determination of his eligibility for FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied Claimant's application for FAP and MA benefits.

Accordingly, the Department's action is AFFIRMED.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/24/09

Date Mailed: 08/24/09

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.

TW/dj

2009-26305/TW

cc:

