

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.: 2009-32901
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
September 17, 2009
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 held on September 17, 2009. The Claimant appeared and testified along with her husband [REDACTED]. [REDACTED] FIS appeared on behalf of the Department.

ISSUE

Did the Department properly calculate claimant's FAP benefit for May 2009 pursuant to a semi-annual review when they included employment income?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing FAP recipient with a group size of 4.
- (2) On May 9, 2009 a new FAP budget was completed using income for [REDACTED], claimant's husband and group member, from his employer Henry Smith.

- (3) Claimant's FAP benefit as of May 21, 2009 was reduced from \$260 to \$193 due to the employment income.
- (4) Claimant informed the department that the job ended March 21, 2009.
- (5) A verification of employment form was mailed to claimant on August 14, 2009 and again on August 24, 2009.
- (6) No verification checklist accompanied the employment verification form.
- (7) Claimant dropped off the verification to his former employer with the assumption that his former employer would complete it and return it to the department but the document was never submitted to the Department.
- (8) Claimant requested hearing on June 6, 2009 contesting reduction of her FAP benefit.

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").

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 present case, the department was informed by the claimant that his employment ended. The department sent employment verification forms but did not provide a verification checklist with a due date, this is improper and contrary to policy. PAM 130, p.2 The Department is also supposed to give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source, before determining eligibility. PAM 130, p.6. This did not happen in this case. Since the Department failed to follow policy, the reduction in benefits was improper.

Policy provides guidance regarding circumstances where verification is difficult to obtain. If neither the client nor the department can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, use your best judgment. PAM 130

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department was incorrect in the reduction of FAP benefits, and it is ORDERED that the department's decision in this regard be and is hereby REVERSED and that the department shall reinstate claimant's benefit to the previous level.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/29/09

Date Mailed: 09/29/09

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.

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