

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: 2009-17375

Issue No: 3003

Case No:

Load No:

Hearing Date:

April 30, 2009

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 telephone hearing was conducted from [REDACTED] on April 30, 2009.

ISSUE

Whether the Department properly terminated Claimant's Food Assistance benefits ("FAP")?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) On December 3, 2008, Claimant submitted a Semi-Annual Contact Report to the Department. (Exhibit 10)

(3) On December 8, 2008, the Department completed a FAP budget which resulted in the Claimant's [REDACTED] monthly FAP allotment being terminated due to excess net income. (Exhibits 2,3,4)

(4) The Department budgeted Claimant's [REDACTED] income ([REDACTED] Claimant's pension ([REDACTED]), Claimant's wife's earned income [REDACTED] and Claimant's daughter's earned income [REDACTED] for a total of [REDACTED]. The Department also budgeted a change in Claimant's mortgage expense from [REDACTED] to [REDACTED] and reduced Claimant's group size from 5 to 4 based on information Claimant provided to the Department in the Semi-Annual Contact Report and/or supporting documentation. (Exhibits 2,3,6,7,8,9,10,11,12)

(5) On December 8, 2008, the Department sent Claimant a Eligibility Notice which stated that Claimant's benefits would be cancelled effective __/__/__. (Exhibit 1)

(6) On December 8, 2008, the Department sent Claimant a Notice of Case Action which stated that Claimant's benefits would be cancelled effective December 20, 2008 unless Claimant filed a Hearing Request not later than December 19, 2008. (Notice of Case Action/Hearing Request)

(7) On December 15, 2008, the Department received Claimant's hearing request protesting the termination of his FAP benefits. (Hearing Request)

(8) At hearing, Claimant disputed his daughter's income being used in the FAP Budget because he stated that she only worked for 2-3 weeks, but he did not

otherwise dispute the income/expenses/group size figures used by the Department. He testified that he attempted to contact [REDACTED] and then [REDACTED] once he received notice that his benefits were going to be terminated, but he never received a return phone call.

(9) The Department's witness, [REDACTED] – FIM, testified that Claimant's caseworker is no longer with the Department. She acknowledged the following Department errors – 1) The Hearing Summary reflecting that Claimant's benefit amount before the negative action was [REDACTED] instead of [REDACTED], 2) Claimant's benefits being terminated despite the fact that the Department received his Hearing Request prior to the action effective date, 3) [REDACTED] listing pay dates for Claimant's daughter of 01/08/09 and 01/22/09 instead of 11/27/08 and 12/11/08 and gross pay of [REDACTED] for each date instead of [REDACTED] and 4) [REDACTED] statement on the Eligibility Notice "The case was excess income before even adding [REDACTED] wages" being incorrect given that Claimant's net income without his daughter's income would be below the [REDACTED] income limit stated in the Food Assistance Simplified Reporting Requirements sent to Claimant by the Department (Exhibit 5).

(10) Claimant acknowledged that [REDACTED] resides with him and he receives foster parent income for her, but he was told by [REDACTED] that it would not count as income. [REDACTED] testified that Claimant should have checked the box yes in the Household Members section of the Semi-Annual Contact Report to indicate that [REDACTED] lived with him and that the foster parent income he received for her should have been included in the FAP budget.

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”).

For FAP purposes, all earned and unearned income available to the Claimant is countable. 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 and includes FIP, RSDI and SSI. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client’s eligibility for program benefits based on the client’s actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client’s future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

The Department is required to verify countable income at application, prior to authorizing benefits, at redetermination and when program policy requires a change to be budgeted. The Department is also required in FIP, SDA, CDC and FAP cases to verify changes that result in a benefit increase or when the change information is unclear, inconsistent or questionable. The client has primary responsibility for obtaining verification. The Department can accept documents (example: pay stubs or award notice), written statements/collateral contacts from persons with knowledge of income (example: employer or issuing agency), Automated Find and Fix Inquiry (AFF) or, for unearned income, a written statement from the agency, organization or person administering a payment. For earnings from employment, the Department verifies income from pay stubs, a copy of the client's work schedule made by the employer and provided by the client when the rate of pay is known, DHS verification of employment forms and other written statements, signed by the employer, giving the necessary information. PEM 500

There is no question the Department made some mistakes in this matter, but I don't believe any affects the proper outcome. The "amount of benefits before negative action listed" on the Hearing Summary was incorrect, but that was cleared up through testimony and another Department Exhibit. The Claimant should have continued to receive [REDACTED] per month in benefits given that he filed a timely hearing request, but Claimant is required to pay it back if the Department determination is affirmed at hearing and is entitled to a supplement if it is reversed. [REDACTED] statement that Claimant had excess income before adding his daughter's income is really irrelevant given that it was added, Claimant was determined to have excess income and that determination is before the undersigned for review. Finally, the Department's position that Claimant should have

checked the box yes for [REDACTED] is really a moot point as she was counted as a group member by the Department and the Department obviously elected not to budget the income Claimant received as a foster parent given the statement by [REDACTED] on the Eligibility Notice – “I am not budgeting any foster parent income”. Claimant certainly is not appealing that decision.

With the above said, the sole issue before me is whether the Department properly terminated Claimant’s FAP allotment effective December 20, 2008. To that end, Claimant returned the Semi-Annual Contact Report to the Department along with proof of income and expenses. Included in the proof of income, was a check stub for his daughter. He did not write across the top of it and/or send any written verification to the Department that his daughter’s job was only temporary, that it was her last paycheck, that she no longer worked there, etc. While Claimant testified that he called [REDACTED] and [REDACTED] after receiving notice that his benefits were going to be cut off, he could not say exactly when he called and what message he left for whom and his testimony clearly did not establish that he provided proper verification for a change in income.

The Department established that it acted in accordance with departmental policy in terminating Claimant’s FAP allotment. If he has not done so already, Claimant is certainly encouraged to reapply for FAP benefits if he believes that his income, expenses, group size, etc. have changed such that he might be again eligible for FAP benefits. The Department can address the issue of foster parent income at that time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in terminating Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/S/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 7, 2009

Date Mailed: May 7, 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 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 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.

SMB/db

cc:

