

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2009-17956
Issue No: 2006, 3008
Case No: ██████████
Load No: ██████████
Hearing Date:
May 19, 2009
Washtenaw 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 ██████████ on May 19, 2009.

ISSUE

Whether the Department properly computed Claimant's Food Assistance Program (FAP) benefits and properly terminated Claimant's Medicaid Assistance (MA) benefits based upon her failure to provide requested verification(s)?

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 was a FAP and MA recipient.
- (2) On or about March 17, 2009, the Department mailed Claimant a Redetermination packet for FAP and MA including a Verification Checklist, DHS-3503, with a due date of March 27, 2009. (Exhibit 7)
- (3) On March 30, 2009, the Department completed a FAP budget based on the income and expenses of Claimant and her husband, [REDACTED] which resulted in a FAP monthly allotment of [REDACTED]. (Exhibits 1-6)
- (4) On April 2, 2009, the Department notified Claimant of the Department action which had an effective date of April 11, 2009. (Hearing Summary)
- (5) On April 2, 2009, the Department received Claimant's hearing request protesting the computation of her FAP benefits and termination of her MA benefits.

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 (DHS or department), 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 (DHS or department) 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).

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, SSI and UB. 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

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. PAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p.1 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. PAM 130, p.1 The

Department uses documents, collateral contacts or home calls to verify information.

PAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. PAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. PAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4 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, p.4

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. PAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. PAM 600, p. 11

In the instant case, Claimant agreed with the income and expense figures used by the Department in calculating her FAP allotment at the time of redetermination. Claimant testified that she expected and/or experienced a change in her husband's unemployment income shortly after this date. Client was informed by the undersigned that, if she had not already done so, she needed to report that type of change or any other change in income and/or expenses to the Department and provide proper verification. As to the termination of her MA benefits, the Department's position is that Claimant did not verify bank assets by the March 27th due date, but that her eligibility was redetermined after the information was received by the Department some time in early April 2009. The Department testified

that Claimant was eligible for MA benefits effective April 1, 2009 which was the same effective date had the information been timely returned to the Department. Claimant testified that she did not understand that she had been eligible for MA benefits since April 1, 2009 until she appeared for hearing. Claimant testified and offered documentation that her bank returned the bank asset verification to the Department on March 31, 2009 and she forwarded it to the Department on April 7, 2009. (Exhibit 8)

With the above said, and in consideration of the testimony and documentation offered at hearing, I find that Claimant made a reasonable effort to timely provide the proofs requested by the Department and provided all the proofs within 4-11 days of the due date. Accordingly, I find that the Department did not establish that it acted in accordance with policy in terminating Claimant's MA benefits case based on her failure to provide requested verifications. I do find that the Department acted in accordance with policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not act in accordance with policy in terminating Claimant's MA benefits based on her failure to provide requested verifications. The Department acted in accordance with policy in computing Claimant's FAP allotment.

Accordingly, the Department's eligibility determination is REVERSED IN PART AND AFFIRMED IN PART, it is SO ORDERED.

(1) Claimant is entitled to MA benefits and FAP benefits in the amount of \$14/month effective April 1, 2009.

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

Date Signed: May 27, 2009

Date Mailed: May 28, 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:

