

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.: 2009-26600
Issue No.: 3008/1018/6021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 22, 2009
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 Detroit, Michigan on July 22, 2009. The Claimant appeared and testified. [REDACTED], FIS, and [REDACTED], FIM, appeared on behalf of the Department.

ISSUES

1. Whether the Department properly closed the claimant's Food Assistance ("FAP") benefits.
2. Whether the Department properly closed the claimant's Family Independence Program ("FIP") benefits.
3. Whether the Department properly paid out the claimant's Child Development and Care Program ("CDC") benefits.

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 was a recipient of FAP, FIP and CDC benefits.
2. Claimant testified she returned the semi-annual contact report to her caseworker at the Wayne County department office in late December 2008 or early January 2009.
3. Claimant moved January 22, 2009 from Wayne County to Macomb County.
4. On January 28, 2009 the Wayne County department office issued a Notice of Case Action regarding changes to claimant's FAP case. (Claimant Exhibit 1)
5. On February 10, 2009 the Wayne County department office closed claimant's FIP benefits for excess income. (Department Exhibit 1)
6. On February 28, 2008 the Macomb County department office closed claimant's FAP benefits for failure to return the semi-annual contact report. (Department Exhibit 4)
7. Claimant's CDC case was open until July 21, 2009 per the testimony of the department representative.
8. Claimant requested a hearing on March 12, 2009 to contest the closure of the FAP and FIP benefits and because she had not receive checks for the CDC benefits.

CONCLUSIONS OF LAW

Food Assistance (FAP)

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").

Under PAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. Customers who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM 105.

In the present case, the agency requested verification from claimant regarding a semi annual contact report. The department's computerized record system indicates that claimant did not return the report therefore the case was closed by the Macomb County office February 28, 2009. (Department Exhibit 4) At the hearing, claimant gave credible testimony that she turned in the semi annual contact report to her worker at the Wayne County district office prior to her move on January 22, 2009. Claimant also provided evidence that in response to the report she submitted, the Wayne County department made changes to her FAP case as documented by the January 28, 2009 Notice of Case action. (Claimant Exhibit 1) Accordingly, the closure of FAP benefits was in error. The department shall re-open the FAP benefits retroactively back to the closure date of February 28, 2009.

Based upon the foregoing facts and relevant law, it is found that the department's FAP determination is REVERSED.

Cash Assistance (FIP)

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 (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependant 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).

Financial need must exist to receive FIP benefits. One step in determining financial need exists is called a “Deficit Test.” To perform the deficit test, the program group’s budgetable income is subtracted from the eligible group’s payment standard for the benefit month. PEM 518. For a group of 2, the payment standard for an eligible grantee is \$403. PEM 515. The group is ineligible for the benefit month if no deficit exists. PEM 518.

In the present case, the claimant disagrees with the figure the department used for income. The department representative present at the hearing was from the Macomb County office and had limited information regarding the action taken by the Wayne County office regarding claimant’s FIP case. From the available documentation, it appears that the department used \$1548 for gross earnings based upon a case note from the Michigan Works program that claimant began working January 13, 2009 for 40 hours a week at \$9 per hour. (Department Exhibit 3) Claimant testified that her work hours have varied and have been less than 40 hours per week. Accordingly, the closure of FIP benefits for excess assets may have been in error. Claimant shall be given an opportunity to provide the department with documentation her actual hours worked and pay. The department shall use this verification to recalculate the FIP budgets retroactively back to the closure date of February 10, 2009 and to provide benefits to claimant if applicable.

Based upon the foregoing facts and relevant law, it is found that the department’s FIP determination is REVERSED.

Day Care Assistance (CDC)

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented

by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Payments are issued in the name of the provider and mailed directly to the provider, except payments for clients who use day care aides which are issued and mailed to the client. PEM 706. All providers are positive bill providers. As such, they are required to bill DHS in order to receive payment. Bills must be received within 90 days of providing child care. Payment is issued after the provider bills. PEM 706.

In the present case, the department representative testified that the claimant's mother is in the system as both a relative provider and as a day care aide. Thus benefit payments could be made either directly to the mother if she billed as a provider, or be mailed to the claimant if the mother provided the services as a day care aide. At the hearing, the department representative had no specific information relating to any payments made in claimant's case. Claimant testified that she never received any payments from the state for child care. Claimant further testified that mother was not given a provider ID for billing the state until April 2009 and that her mother has received payments since April 2009. Prior to April 2009, claimant indicates she paid her mother for the day care services out of pocket. Therefore, it is unclear if payments were ever made for day care services from January 2009 through April 2009. Accordingly, the department shall check for any payments made for day care services from January through April 2009 and provide benefits to claimant if applicable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the claimant's FAP and FIP benefits.

Accordingly, the Department's FAP and FIP eligibility determinations are REVERSED. Therefore it is ORDERED that the department reinstate Claimant's FAP case retroactive to the closure date of February 28, 2009. It is further ORDERED that the department allow claimant to provide verification of the actual hours worked and wages earned and then use the verification to recalculate the FIP budgets retroactively back to the closure date of February 10, 2009. Additionally, the department is also ORDERED to check into the payments for the CDC benefits from January through April 2009 and provide benefits to claimant if applicable in accordance with this Decision.

/s/

Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/26/09

Date Mailed: 08/27/09

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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