

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.: 2009-27410
Issue No.: 1005/2006/3008/6015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 30, 2009
Oakland County DHS (2)

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 30, 2009. The Claimant appeared and testified. [REDACTED], JET case manager, appeared on behalf of the Department. [REDACTED] appeared from the Office of Inspector General.

ISSUE

Whether the Department properly proposed to close the claimant's Food Assistance ("FAP"), Family Independence Program ("FIP"), Medical Assistance, and 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, MA and CDC benefits in a household of 6.

2. The department referred this case to the Office of Inspector General (OIG) when they were unable to verify claimant's employment and need for day care.
3. [REDACTED], OIG Agent, was unable to verify the claimant's employment and prepared a report summarizing her investigation. (Department Exhibit 4)
4. On April 23, 2009 the department sent claimant notice of the proposed closure of the FAP, FIP, MA and CDC benefits effective May 5, 2009.
5. Claimant requested a hearing on May 1, 2009 to contest the closure of the FAP, FIP, MA and CDC benefits.
6. Claimant's benefits have remained open pending the hearing.

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").

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).

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).

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).

The Department of Human Services may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. PEM 703

Under PAM 105, clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews. PAM 105.

In the present case, claimant completed applications for the department in March 2007, April 2008 and February 2009. (Department Exhibit 1 pp 1-12 and Department Exhibit 6 pp 11-25) Verifications of claimant's employment were signed by the employer in March 2007, April 2008, and February 2009 listing her occupation as housekeeper and adult care. (Department Exhibit 2 pgs. 1-4 and Department Exhibit 6 pgs. 5-6) Department testified that they made attempts but were unable to verify the claimant's employment or need for day care services. Therefore the case was referred to the OIG office for an investigation. The referral to OIG notes referral reasons of unreported/underreported income, family group size of 6 or more, questionable absent parent, unreported/underreported employment, application/prior inconsistencies. (Department Exhibit 6)

The employment verifications submitted to the department listed claimant's occupation as housekeeper and adult care. (Department Exhibit 2 pgs. 1-4 and Department Exhibit 6 pgs. 5-6) Claimant testified that the services she provides are for the employer's father and include housekeeping activities, shopping and generally watching over the father. Claimant spoke with the OIG agent on April 1, 2009 and reported she watched the father of her employer and did not know the address, just the intersection where the father lives. (Department Exhibit 4)

As part of her investigation, the OIG agent called the employer. The employer first stated claimant cleans his home, and then stated claimant cleaned his office. When asked for the office location, the employer became uncooperative in speaking further with the agent. (Department Exhibit 4) The agent reported that she was unable to verify claimant's employment. (Department Exhibit 4)

The verifications submitted by claimant indicate she works from 5pm to 10 pm Wednesday through Saturday. (Department Exhibit 2 pgs. 1-4 and Department Exhibit 6 pgs. 5-6) Claimant has listed her child care provider as Pamela Fields. (Department Exhibit 1 pg. 2)

The agent's report indicates that three visits were made to claimant's home on March 24, 2009 at noon, April 1, 2009 at 3:20 pm and April 2, 2009 at 4:40 pm. There was no answer at the door on the first visit. On the second visit, the agent did speak with claimant who stated she leaves at 4:00 pm work Wednesday through Saturday and that the babysitter arrives at her home between 3:30 and 3:35 pm. On Thursday April 2, 2009 the agent stopped by for a third visit at 4:40 pm and did not find claimant or the babysitter. Instead, a child playing outside stated his father was there. The man who came to the door gave the agent a name she finds questionable, but did admit he was watching the claimant's children. (Department Exhibit 4)

Having assessed the credibility of all witnesses and reviewed the documentation in the record the department's proposed closure of FAP, FIP, MA and CDC benefits is correct. The department and agent have made unsuccessful attempts to verify claimant's information including her employment, need for child care services and her child care provider. They employer's statements do not support claimant's reported work activities, and the OIG agent, on the third home call, did not find the specified child care provider with claimants children during a day and time claimant reported she would be at work and the child care provider would be at claimant's home with the children.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department proposed closure of the claimant's FAP, FIP, MA and CDC benefits is correct.

Accordingly, the Department's FAP, FIP, MA and CDC eligibility determinations are AFFIRMED.

Colleen Lack

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

Date Signed: 09/10/09

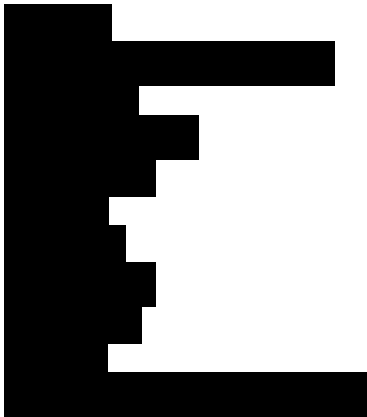
Date Mailed: 09/11/09

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.

CL/jlg

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