

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. 2009-28774

Issue No. 1015, 3002

Case No. [REDACTED]

Load No. [REDACTED]

Hearing Date:

August 13, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 13, 2009. The claimant appeared and testified. Nakesha Woods, FIM, appeared on behalf of the department.

ISSUE

Is claimant receiving the correct monthly Food Assistance Program (FAP) and Family Independence Program (FIP) benefits?

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 an ongoing recipient of FAP and FIP benefits in a household of 2 persons.
2. Claimant called the department's Change Reporting Center to report she was beginning a new job in May 2009 and expected to work 40 hours a week at 7.50 per hour.

3. On June 2, 2009, department re-calculated the FAP and FIP budgets based on the report of claimants full time employment from the Change Reporting Center.
4. Claimant made additional calls to the Change Reporting Center and to her caseworker beginning May 19, 2009 because she never worked full time hours and was laid off after working only 3 days.
5. Claimant eventually spoke with the caseworker's supervisor who advised claimant to have the employer complete a Verification of Employment form.
6. Claimant's employer completed the Verification of Employment on June 22, 2009 indicating she was re-hired June 18, 2009 and attached documentation of pay claimant received for the hours she worked in May 2009. Claimant Exhibit 1 pgs. 1-3
7. On June 30, 2009, claimant requested a hearing contesting the amount of the FAP and FIP grants.
8. On July 1, 2009, the department issued a Verification Checklist with a due date of June 10, 2008. Department Exhibit 2.
9. Claimant's employer completed another Verification of Employment July 8, 2009 indicating she was hired in June and attached documentation of the pay claimant received for hours worked in May and June 2009. (Claimant Exhibit 1 pgs. 4-5)

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).

Under PAM 105, clients must report changes in circumstance that potentially affect eligibility or benefit amount including: starting or stopping employment, changing employers, change in rate of pay, and change in work hours of more than 5 hours per week that is expected to continue for more than one month. For the FIP program, the department must act on a claimant reported change within 15 workdays. For the FAP program, the department must act on a claimant reported change within 10 days. PAM 220. The department is to verify income at application, redetermination, for changes that result in a benefit increase or when change information is unclear, inconsistent or questionable. PEM 505. Under PAM 130, the department is to use the DHS-3503 Verification Checklist to tell the client what verification is required, how to obtain it, and the due date.

In the present case, claimant called the change reporting center to report her new employment which was expected to be full time. Claimant provided credible testimony that she called the change reporting center on May 19, 2009 and made subsequent calls to the department to report that she was laid off after working only a few days. Claimant testified she had trouble

communicating with her caseworker but did eventually speak with the supervisor who advised her to have the employer complete a Verification of Employment form.

When claimant contacted the employer to complete the Employment Verification form, she was rehired. Accordingly, the Employment Verification form completed by the employer on June 22, 2009 indicates claimant was re-hired on June 18, 2009 but received her last paycheck May 29, 2009. Claimant Exhibit 1 pgs. 1-2. Attached to the form was a print out showing claimant worked 6 hours the week ending May 24 and 14.5 hours the week ending May 17, 2009. Claimant Exhibit 1 pg. 3. Claimant testified she only worked one day in June 2009 after being re-hired.

The department issued a Verification Checklist on July 1, 2009 with a due date of July 10, 2009. Department Exhibit 2. Claimant went back to the employer for another Verification of Employment form which was completed by the employer on July 8, 2009. The form listed June 18, 2009 as the date employment began and indicated claimant was previously employed. However, attached was another check history documenting pay for the very limited hours claimant worked in May and June 2009. Claimant Exhibit 1 pgs. 4-6. The department testified that the full time income was removed from the budget effective August 1, 2009.

Based upon the foregoing facts and relevant law, it is found that the claimant was not receiving the correct monthly FIP and FAP benefit allotments because full time income was used in calculating the budgets when claimant was not working full time hours. Claimant first reported that she was laid off on May 19, 2009. However, the department did not issue a Verification Checklist until July 1, 2009 and the full time income was not removed from the budget until August 1, 2009. The verification from the employer documents that claimant never worked full time and had very limited hours in May and June 2009.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the claimant was not receiving the correct monthly FAP and FIP benefit allotments because full time income was used in the budgets and claimant was not working full time. Accordingly, it is ordered that the department's FAP and FIP determinations in this regard be and are hereby REVERSED.

Therefore, it is ORDERED that the department re-calculate the FAP and FIP budgets retroactive to May 2009 and award benefits to claimant, if appropriate, in accordance with this decision.

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

Date Signed: 09/08/09

Date Mailed: 09/08/09

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 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 mailing 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/dj
cc:

