

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: 2009-33086
Issue No: 3015; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 16, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on September 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) program benefits in July, 2009?

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 CDC recipient when her case came due for a review in June, 2009.
2. Department did not complete the case review until July 22, 2009, and used June 5, 2009 pay stub for income projection, as well as UCB claimant was receiving.

3. Department's FAP and CDC budgets resulted in determination that the claimant had excess income for these programs.

4. Department terminated claimant's FAP and CDC benefits on July 22, 2009, according to the Hearing Summary information. Claimant requested a hearing on August 10, 2009.

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. 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).

Claimant's caseworker is not available for the hearing. Documentation provided for the hearing includes Bridges Employment – Pay Details showing earning for the claimant for pay

dates of May 8, May 22 and June 5, 2009. These pay check amounts are \$586.51, \$295.36 and \$596.07. Claimant's caseworker apparently based the FAP and CDC income projection on the pay check from June 5, 2009. Claimant states that her hours of work vary, and this appears to be a strong possibility judging from the pay information for May and June, 2009. Departmental policy on income budgeting states:

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
 - .. the past 30 days is not a good indicator of future income, and
 - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

Note: The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

In claimant's case her caseworker did not complete FAP and CDC budgets until July 22, 2009. It was apparent from the information in department's possession that claimant's income did fluctuate in May, 2009 and therefore possibility of such income fluctuation existed for June and July, 2009 also. Claimant's caseworker should have therefore obtained income information for the rest of June, 2009 pay dates and for July, 2009 pay dates up to the date FAP and CDC budgets were computed, July 22, 2009. Such action may or may have not resulted in claimant's continued eligibility for FAP and CDC, however it is an error on part of the department that it was not undertaken.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's FAP and CDC benefits in July, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Obtain claimant's income information for June and July, 2009, if she has not already provided this information (as she stated in the hearing she would do so).
2. Upon receipt of the income information, re-compute claimant's FAP and CDC budgets to determine if she would have continued to be eligible for FAP and CDC.
3. If the claimant is determined to have been continuously eligible for FAP and CDC, re-open claimant's case and issue her any benefits she was entitled to receive.
4. Notify the claimant in writing of department's FAP and CDC eligibility determination.

SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 28, 2009

Date Mailed: September 29, 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 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.

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