

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: 2009-34282

Issue No: 3008, 3015

Case No:

Load No:

Hearing Date:

October 1, 2009

Kent 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 [REDACTED] on October 1, 2009.

ISSUE

Whether the Department properly closed Claimant's Food Assistance Program (FAP) case?

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 FAP recipient.
- (2) On July 2, 2009, the Department received a June 27, 2009 Noncooperation Notice that was sent to Claimant by the Office of Child Support (OCS). The Noncooperation Notice informed Claimant that she was considered to be noncooperative,

that noncooperation would result in a reduction of benefits or case closure and that her DHS specialist would be receiving a copy of the letter and would inform her how this finding would affect her case. (Exhibit 4)

(3) The Department removed Claimant as a group member and completed a new FAP budget for the remaining 5 group members which resulted in a monthly FAP allotment of \$0 due to excess income. (Exhibit 5)

(4) On July 11, 2009, the Department mailed Claimant a Notice of Case Action which informed Claimant that her FAP case would close effective August 1, 2009 due to excess income as a result of her failure to cooperate with child support requirements. (Exhibit 6)

(5) On August 14, 2009, the Department received the Claimant's hearing request protesting the closure of her FAP case.

(6) On September 1, 2009, the OCS sent Claimant and the Department a Cooperation Notice with a "Date of Cooperation" - September 1, 2009. (Exhibit 7)

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

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. BEM 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. BEM 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. BEM 505

Families are strengthened when the children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court and the prosecuting attorney to establish and/or obtain support from the absent parent. Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they received assistance unless a claim of good cause for not cooperating has been granted or is pending. BEM 255, p.1 For FAP, failure to cooperate without good cause results in disqualification of the person who failed to cooperate. The person should be removed for

a minimum of one month. The remaining eligible group members may receive program benefits. The Department should end the disqualification when it is notified by the OCS that the client has cooperated. BEM 255, p. 12-13

In the instant case, Claimant failed to cooperate with the OCS. As a result, she was removed from the group and a new FAP budget was run which resulted in excess income and her case being closed. With that said, I find that the Department established that it acted in accordance with policy in closing Claimant's FAP case. Presumably, the Department ran a new budget for the group, including Claimant, after it received the September 1, 2009 Cooperation Notice from the OCS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in closing Claimant's FAP case.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

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

Date Signed: October 5, 2009

Date Mailed: October 7, 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 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.

SMB/db

cc:

