

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010-15473

Issue No.: 3000/6000

Case No.: ██████████

Load No.: ██████████

Hearing Date:

June 2, 2010

Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 2, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), ██████████, Specialist, appeared and testified.

ISSUE

Whether DHS properly failed to recertify Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) benefits beginning 1/1/2010

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 CDC and FAP recipient.
2. Claimant's certification period for CDC and FAP benefits ended 12/31/09.

3. Claimant submitted three consecutive weekly employment check stubs from 11/2009 as part of her recertification submission.
4. The 11/13/09 check verified gross income of \$493.82 for 40.5 hours of work.
5. The 11/20/09 check verified gross income of \$482.40 for 40 hours of work.
6. The 11/27/09 check verified gross income of \$1168.93 for 75.4 hours of work.
7. Using the three submitted checks, DHS processed Claimant's CDC and FAP redetermination and found that Claimant's income exceeded the gross income limits for each program.
8. Claimant submitted a hearing request on 1/6/10 regarding denial of the CDC and FAP redetermination.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 (formerly known as the Family Independence Agency) provides services to adults and

children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS initially contended that Claimant's three pay stubs verified only 21 days of income and not a full 30 day period as generally required by BEM 505. Claimant was mailed notices denying the redetermination due to excess income, not for lacking verifications. DHS could not have denied Claimant's redetermination for excess income if income information was lacking. The undersigned finds that Claimant's FAP and CDC redeterminations were denied because of excess income and not for lacking verifications.

The primary issue was whether DHS should have considered Claimant's 11/27/09 income in evaluating Claimant's income eligibility. The 11/27/09 check verified an income that exceeded Claimant's previous two checks combined. Testimony was taken from Claimant and DHS about efforts that each side made to clarify whether the 11/27/09 pay check was representative of Claimant's income. Due to agreement of the parties, the undersigned need not address this issue.

MCL 24.278(2) and MSA 3.560(178)(2) provide that a contested case may be disposed of by stipulation of the involved parties to an agreed settlement. Prior to the conclusion of the hearing, DHS volunteered to reconsider Claimant's CDC and FAP benefit recertification beginning 1/1/10. The settlement was assisted by Claimant submitting the check dated 11/6/09 to DHS at the hearing; this check gave DHS a full 30 days of income verification. DHS also agreed that based on Claimant's testimony and surrounding pays, the 11/27/09 check should be disregarded as unrepresentative of Claimant's prospective income.

DECISION AND ORDER

The actions taken by DHS are REVERSED. Based on agreement of the parties, it is ORDERED that DHS redetermine Claimant's FAP and CDC benefits beginning with the recertification period beginning 1/1/10. It is further ordered that DHS discard Claimant's 11/27/09 pay stub in prospecting Claimant's income.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/11/2010

Date Mailed: 6/11/2010

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.

CG/jlg

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