

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.: 2010-20694
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Monday, April 26, 2010. The Claimant appeared and testified, along with [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits effective March 2010?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP recipient.
2. The Claimant's group size is 6.
3. In November 2009, the Claimant reported earnings from part-time employment.
4. As a result, the Department requested verification of income.

5. On December 10, 2009, the Department received statements from individuals who previously assisted the Claimant financially but were no longer providing help. (Exhibit 1, pp. 4 – 6)
6. The Claimant submitted copies of her November paystubs and signed a statement that there was no other income. (Exhibit 1, pp. 2, 3)
7. On December 15, 2009, the Department requested verification of the Claimant's mortgage, heating expense, property taxes, and proof that the Claimant's spouse's worker's compensation benefits had ceased. (Exhibit 1, pp. 8, 9)
8. The requested verifications were due on December 28, 2009. (Exhibit 1, pp. 8, 9)
9. The Claimant submitted a rental agreement which provides that the Claimant's monthly shelter obligation is \$600.00 and that she is responsible for utilities. (Exhibit 1, pp. 12 – 18)
10. On December 21, 2009, the Department sent another verification checklist to the Claimant requesting a current insurance statement to be submitted by January 4, 2010. (Exhibit 1, p. 7)
11. The Claimant submitted a verification of insurance coverage showing that another individual insured the property from December 22, 2009 through December 22, 2010. (Exhibit 12 – 15)
12. On January 22, 2010, the Department pended the Claimant's FAP case for closure.
13. On January 28, 2010, the Department received the Claimant's timely written request for hearing. (Exhibit 4)
14. Despite the timely hearing request, the Claimant's FAP benefits terminated effective March 2010.

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”), formerly 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”)/Bridges Administration Manual (“BAM”), the Program Eligibility Manual (“PEM”)/Bridges Eligibility Manual (“BEM”), and the Program Reference Manual (“PRM”)/Bridges Policy Glossary (“BPG”).

Group composition is the determination of which persons living together are included in the FAP program group. PEM/BEM 212 For FAP purposes, all expenses are converted to a nonfluctuating monthly amount. PEM/BEM 554 All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. PEM/BEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. *Id.* Gross workers’ compensation benefits are counted as unearned income. PEM/BEM 503 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM/BEM 554 Shelter expense is an allowable expense and includes rent payments. *Id.*

For FAP purposes, income that decreases or stops must be verified. PEM/BEM 503 Under the Bridges program, using the client’s statement as a verification source results in the case incorrectly pending eligibility and the generation of a verification checklist. BEM 503

In the instant case, the Claimant notified the Department that she began part-time employment. As a result, the Department requested income verification which the Claimant timely provided. In addition, the Department requested mortgage, insurance, property tax, and proof that the Claimant's spouse no longer received any workers' compensation benefits. The Claimant submitted the requested information. The Claimant's spouse testified that he no longer receives workers' compensation benefits and has not received these benefits in quite awhile. The Claimant's spouse testified credibly regarding his attempts to obtain documentation directly from the workers' compensation bureau. The Claimant's benefits were offset against social security. The Claimant provided a SSA-1099 form which shows \$945.00 in benefits were repaid to the Social Security Administration resulting in the net benefits received by the Claimant for 2009 as zero. Subsequent to the case closure, the Claimant contacted the Social Security Administration ("SSA") which submitted benefit information providing that the Claimant never received SSI income and that he was not receiving benefits (disability) "at this time." There was no evidence that the Claimant refused to provide the requested information or that there was a failure to cooperate. Based on the best available information at the time of the improper closure (in light of the timely hearing request), the Department had verification of the Claimant's employment; that family financial support had ceased; the shelter obligation which included the Claimant's responsibility for utilities; the group size was 6; and that the Claimant's spouse was not receiving workers' compensation benefits. Under these facts, it is found that the Department failed to establish it followed Department policy when it terminated the Claimant's FAP benefits. Accordingly, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department failed to establish that it acted in accordance with department policy when it terminated the Claimant's FAP benefits effective March 2010.

Accordingly, it is ORDERED:

1. The Department's termination of FAP benefits is REVERSED.
2. The Department shall reinstate and recalculate the Claimant's FAP benefits from the date of closure and notify the Claimant of the determination.
3. The Department shall supplement for any lost FAP benefits that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 5/4/2010

Date Mailed: 5/4/2010

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.

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cc:

