

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.: 2010-20831
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 21, 2010
Macomb County DHS (12)

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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 21, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager and [REDACTED], Specialist, appeared and testified.

ISSUE

1. Whether DHS properly terminated Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits due to Claimant's failure to verify self-employment income.
2. Whether Claimant properly received no State Emergency Relief (SER) assistance due to the same failure to verify income.

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 FAP and MA recipient.
2. Claimant reported to DHS that she was an employee of [REDACTED]
[REDACTED]
3. Claimant submitted a letter dated 11/19/09 from [REDACTED] to verify that she was laid off by her employer. Exhibit 1.
4. In 1/2010, DHS discovered that Claimant was the owner of [REDACTED]
[REDACTED]
5. DHS mailed notice of termination of Claimant's FAP and MA benefits on 1/22/10 due to Claimant's failure to report income.
6. Claimant applied for SER assistance for her gas and electricity on 1/16/10.
7. DHS approved Claimant for \$550 in electricity assistance subject to a \$143.17 copayment by 2/5/10
8. DHS approved Claimant for \$550 in heat assistance subject to an \$1891.61 copayment by 2/5/10.
9. Claimant did not make either copayment by 2/5/10.
10. Claimant submitted a hearing request on 1/26/10; Claimant's hearing request failed to allege the specific programs which she was disputing but at the hearing Claimant testified that she disputed termination of her FAP and MA benefits and the SER decision.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 at 5. Clients must completely and truthfully answer all questions on forms and in interviews. *Id.*

At the hearing, Claimant conceded she owned [REDACTED]. Claimant only made this concession after investigation by DHS. Claimant previously tried to represent she was an employee, not owner, based on a letter submitted by Claimant that she was laid-off. Exhibit 1.

Claimant also testified that as the owner, she received rent payments from the persons working at the business. Claimant contended that this income went to her business rent

obligations and that she was essentially left with only the income she made from styling hair, which Claimant states she did report.

Countable self employment income includes a person's total gross income minus total expenses. BEM 502 at 3. Income must be verified for all DHS programs (except Healthy Kids). BEM 500 at 10.

Claimant might be correct that her rent expenses exceeded her rent income, however it is not Claimant's place to misrepresent herself as an employee when she is the owner and to under-report her income even if it is offset by expenses. Claimant should have reported her total gross self-employment income. It is found that DHS properly terminated Claimant's FAP and MA benefits due to Claimant's failure to report and verify her total self-employment income.

DHS actually approved Claimant's 1/6/10 request for SER assistance; Claimant's approval was subject to copayments by Claimant. When Claimant did not make the copayments by the 30th day following the SER application date, no SER payment was made. DHS did not deny Claimant's SER request due to failure to verify income because DHS had not yet fully confirmed Claimant's ownership of business.

As with FAP and MA benefits, Claimant has a responsibility to cooperate with DHS by accurately and truthfully reporting information. ERM 102 at 1. Also similarly, all non-excluded income must be verified. ERM 206 at 5.

It is not disputed that Claimant still contended she was not an owner of the business at the time of her SER application even though she was. Claimant could have as easily been denied SER assistance for failing to report income. The undersigned is not inclined to reconsider Claimant's SER decision when Claimant could have been denied for misreporting and failing to

verify income. It is found that DHS properly made no payments on Claimant's SER request for assistance with heat and electricity.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FAP and MA benefits. It also found that Claimant's request for SER assistance was properly denied.



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

Date Signed: 6/23/2010

Date Mailed: 6/23/2010

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

cc:

