

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201051596
Issue No. 3008; 3026
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 27, 2010
Office: 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 held on September 27, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

1. Whether DHS erred by failing to recognize Claimant's employment as self-employment.
2. Whether DHS properly denied Claimant's application for Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits due to Claimant's failure to verify her 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 applied for FAP, MA and FIP benefits on 6/29/10.
2. On 6/29/10, DHS opened FAP benefits for Claimant for 6/2010 and 7/2010 as Claimant was eligible for expedited FAP benefits.
3. Claimant worked as a dancer for two different employers.

4. Claimant listed her employment on the "Employment Income" page of the Assistance Application (Exhibit 16) and indicated that she made \$150 per 7 hours of work.
5. Claimant did not list any employment on the "Self-Employment" section of the Assistance Application.
6. On 6/29/10, DHS mailed Claimant a Verification Checklist (Exhibit 7 and 8) requesting proof of Claimant's employment.
7. DHS also mailed Claimant two Employment Verifications (Exhibits 5 and 6) for the purpose of verifying Claimant's employment.
8. Claimant submitted an Employment Verification (Exhibit 9 and 10) from one of her employers on 7/22/10.
9. DHS denied Claimant's request for FIP and FAP benefits on 7/23/10 due to Claimant's failure to verify income from her second employer.
10. DHS denied Claimant's application for MA benefits on 8/13/10.
11. Claimant requested a hearing on 8/23/10 objecting to the DHS denial of MA, FIP and FAP benefits.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110 at 1. Before processing an application for FIP and FAP benefits, DHS may require a client to verify information within their application. Verification is usually required at application. BAM 130 at 1. DHS must give clients at least ten days to submit verifications. *Id.* After the date passes for submission of verifications, DHS may send a negative action notice if the time period given has elapsed and the client has not made a reasonable effort to provide the information. BAM 130 at 5.

In the present case, DHS requested verification of Claimant's employment income. Countable income must be verified at application for all programs except Healthy Kids. BEM 500 at 9. Employment income is countable income. BEM 501 at 5. It is found that DHS appropriately requested verification of Claimant's employment income.

It was not disputed that Claimant was employed at two locations and that she failed to verify her employment for one of the employers prior to her application being denied. Claimant responded that she was self-employed and that DHS should not have requested information via an Employment Verification which is appropriate for a person who is not self-employed.

DHS had no reason to believe that Claimant was self-employed. The Assistance Application has a section for self-employment income; Claimant left this section blank. Claimant listed her employment income in the section titled "Employment Income". DHS cannot be faulted for accepting Claimant's own statements as the basis for believing that Claimant was not self-employed. On her Assistance Application (Exhibit 16), Claimant listed her average number of employment hours as "7" and a flat rate of pay of \$150/day. A flat rate of pay tends to indicate that Claimant was not self-employed.

Claimant contends that DHS should have known that her profession is one that involves self-employment. The undersigned is not inclined to agree. Claimant's expectation is for DHS to be more familiar with her employment than herself; this is not an appropriate expectation. It is found that DHS properly mailed the proper employment verifications in response to the way Claimant completed her Assistance Application.

Claimant also contended that she made several calls to her specialist but was often unable to contact her specialist. The client must obtain required verification, but DHS specialists must assist if they need and request help. BAM 130 at 3.

It was not disputed that Claimant spoke with a DHS manager on 7/15/10 and that Claimant spoke with her specialist on 7/22/10. Claimant was unable to clarify why these conversations were not sufficient to answer her questions or why a failure by her specialist to contact her sooner than 7/22/10 affected her ability to submit a verification of her income. Further, DHS indicated that Claimant reapplied for FIP and FAP benefits following the denial of her 6/29/10 application and that Claimant successfully submitted

an Employment Verification from both employers listed on her application. It is found that Claimant failed to verify her employment income and that DHS properly denied Claimant's application for FIP benefits and terminated her ongoing FAP benefits.

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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Clients may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105 at 2. Claimant is a non-pregnant, non-senior, non-disabled caretaker of a minor child who is over 21 years old. Claimant's most beneficial MA program for ongoing Medicaid is through Low-Income Family (LIF) or Group 2 Caretaker (G2C). Claimant's minor child is under 21 years old and may be eligible for Medicaid through LIF or Healthy Kids (HK).

MA benefits through the HK program are available to a person who is under age 19 when net income does not exceed 150% of the poverty level. BEM 131 at 1. As stated above, income verifications are required for all programs, except Healthy Kids. It is found that DHS properly denied Claimant's request for MA benefits for herself because all of her potential MA programs require that her income is verified. For Claimant's child, because DHS required income verification for a program that does not require income to be verified, it is found that DHS improperly failed to evaluate Claimant's child for MA benefits through the Healthy Kids program.

DECISION AND ORDER

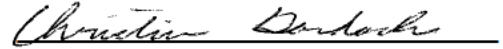
The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly: denied Claimant's request for FIP benefits, denied MA benefits for Claimant only and terminated Claimant's FAP benefits.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits for her child. It is ordered that DHS

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reinstate Claimant's 6/29/10 application for MA benefits for Claimant's minor child and to process the application in accordance with their policies.

/s/



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

Date Signed: October 5, 2010

Date Mailed: October 5, 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 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.

CG/hw

cc:

