

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.: 201052490
Issue No.: 2001; 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 4, 2010
Macomb County DHS (36)

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 November 4, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. [REDACTED] appeared as an interpreter for Claimant. On behalf of Department of Human Services (DHS), Kristin Haase, Specialist, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimant's Food Assistance program (FAP) benefits after Claimant failed to verify information but reported a change, making the previously requested information irrelevant to Claimant's ongoing FAP benefits.
2. Whether DHS properly terminated Claimant's Adult Medical program (AMP) coverage due to excess 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 AMP recipient.
2. Claimant's daughter, [REDACTED], was a member of Claimant's FAP benefit group.
3. Claimant reported to DHS that [REDACTED] had employment income of \$100/week.

4. Based on a bank statement (Exhibit 2) submitted by Claimant, DHS noticed multiple deposits by [REDACTED] which tended to show an income significantly greater than \$100/week.
5. On 7/21/10, DHS mailed Claimant a Verification Checklist (Exhibit 3) requesting proof explaining [REDACTED] bank deposits going back to 2/2010
6. The due date for the requested verification was 8/2/10.
7. Claimant failed to return verification explaining [REDACTED] bank deposits.
8. On 8/3/10, DHS received a letter (Exhibit 4) from [REDACTED] indicating that she no longer lived with Claimant.
9. Claimant receives \$575/month in gift income from his children.
10. On 8/16/10, DHS terminated Claimant's FAP benefits due to Claimant's failure to verify [REDACTED] bank deposits and Claimant's AMP benefits due to excess income (Exhibit 6).
11. Claimant requested a hearing on 8/26/10 disputing the DHS actions terminating Claimant's FAP and AMP 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).

DHS is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 at 1. In the present case, DHS requested verification concerning a FAP group member's income. DHS requested the information based on contradictory information between Claimant reporting that [REDACTED] income was \$100/month and a bank statement which indicated [REDACTED] monthly deposits exceeded \$5000/month. It is found that DHS appropriately requested information concerning Claimant's daughter's income based on contradictory information.

Instead of clarifying the information, Claimant submitted a letter indicating that his daughter no longer lived with him. Claimant's reported change would render the employment information for [REDACTED] moot because as a non-household member, her income would no longer be a factor in determining Claimant's future FAP benefits.

DHS contends that Claimant failed to verify information that was necessary for Claimant's FAP benefits at the time of the request; accordingly, DHS contends, Claimant's failure to verify the information appropriately resulted in FAP benefit closure. The undersigned tends to reject the contention of DHS.

It is not disputed that once Claimant reported that his daughter moved out of Claimant's house, her income was no longer an eligibility factor for Claimant's ongoing FAP eligibility. As Claimant's daughter's income was no longer a factor in determining Claimant's FAP benefits, DHS had no basis to terminate Claimant's FAP benefits. Accordingly, it is found that DHS improperly terminated Claimant's FAP benefits.

DHS contended that Claimant's failure to submit the verification will make it more difficult to pursue recoupment against Claimant. The DHS argument may be true but is irrelevant to Claimant's obligations. DHS regulations do not require clients to submit documents to make the job of DHS easier to prove an over-issuance of benefits. Allowing such a policy is in the neighborhood of approved extortion. The undersigned is not inclined to allow such a heavy-handed method in obtaining information from clients.

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115) (a) (1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640 at 3. In the present case, it was not disputed that Claimant received \$575/month in gift income from his children. A donation to an individual by family or friends is the individual's unearned income. BEM 503 at 8. Claimant's net income for purposes of AMP benefits was correctly calculated by DHS as \$575/month (Exhibit 6). The AMP income limit is \$316/month. It is found that Claimant's income exceeded the income limits for AMP. Accordingly, it is found that DHS properly terminated Claimant's AMP benefits due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's AMP benefits effective 9/2010 due to excess income. 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 improperly terminated Claimant's FAP benefits effective 9/1/10 due to a failure to verify information because the information which was requested was no longer necessary to determine Claimant's ongoing FAP benefit eligibility. The actions taken by DHS are partially REVERSED.



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

Date Signed: November 10, 2010

Date Mailed: November 10, 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/hw

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