

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.: 2010-9588
Issue No.: 1015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 8, 2010
Wayne County DHS (49)

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 April 8, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS correctly budgeted Claimant's income for Family Independence Program (FIP) benefits in 9/2009 and 10/2009.

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 FIP benefits on 9/14/09.
2. Claimant indicated on her Assistance Application (DHS-1171) that she worked 35-40 hours/2 weeks for \$11.61/hour.

3. In 9/2009, Claimant learned that her employment hours would be reduced to zero for an unknown period of time.
4. Claimant reported the employment change to DHS.
5. On 10/5/09, DHS requested verification of Claimant's employment change.
6. Claimant returned an Employment Verification (DHS-38) which did not indicate that Claimant's hours were reduced or that she was temporarily laid-off.
7. DHS calculated Claimant's FIP benefits for 9/2009 and 10/2009 based on the income reported on Claimant's DHS-1171.
8. Using Claimant's reported income from the DHS-1171, DHS calculated Claimant's FIP benefits to be \$10 for 9/2010 and 10/2010.
9. Claimant submitted a hearing request on 11/18/09 regarding the amount of her 9/2010 and 10/2010 FIP benefits.

CONCLUSIONS OF LAW

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).

Verification of income is required for all programs including FAP. BEM 500 at 9. On 10/5/09, DHS made an appropriate request for verification of Claimant's reduced hours on

10/5/09. In response, Claimant submitted a DHS-38 which indicated that Claimant's hours "varied."

BAM 130 directs DHS specialists as follows, "If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment." In the present case, DHS and Claimant made efforts to obtain verification of Claimant's reduced hours but both were unable to successfully do so.

DHS had two statements from Claimant regarding her employment hours. DHS had a written statement from her DHS-1171 that she worked 35-40 hours/2 weeks and a subsequent verbal statement that the hours were reduced. Claimant credibly testified that the statements were not contradictory because she expected to work 35-40 hours per week on the date she applied, but her hours were subsequently reduced shortly after she applied. DHS also had a DHS-38 which indicated Claimant's hours "varied".

DHS found that Claimant's initial written statement was a more reliable source than her subsequent verbal statement or the DHS-38. The undersigned cannot find fault with DHS for relying on Claimant's written statement over Claimant's verbal statement and DHS-38. The DHS-38 was essentially useless as "varied" offers no guidance on Claimant's actual employment hours.

It is also found that Claimant could have made a better effort in verifying that her hours were reduced. Claimant's employer was not uncooperative as a DHS-38 was completed on Claimant's behalf. Unfortunately for Claimant, the DHS-38 did not verify what Claimant reported. Claimant knew what the purpose of the DHS-38 was and could have had her employer add a statement regarding her hour reduction before submitting the DHS-38 to DHS. It is found that DHS appropriately exercised their discretion and best judgment in budgeting Claimant's

employment hours at 35-40/2 weeks in calculating Claimant's FIP benefits for 9/2009 and 10/2009.

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 calculated Claimant's FIP benefits for 9/2009 and 10/2009.

Christian Gardocki

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

Date Signed: 4/21/2010

Date Mailed: 4/21/2010

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 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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