

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: 2010-13137  
Issue No: 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
January 20, 2010  
Mecosta County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 held on January 20, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly cancel claimant's Food Assistance Program (FAP) benefits based upon its determination that claimant failed to provide verification information?

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 a Food Assistance Program benefit recipient.
- (2) Claimant's husband works as an independent contractor for [REDACTED]

(3) Claimant's husband is considered to self-employed and as a result the Department of Human Services could allow expenses if his income were offset by the expenses and were verified.

(4) Claimant's husband made a total of \$89,056.53 in the eight-month duration with his employer based upon his pay stubs.

(5) This averages to \$11,132.06 per month.

(6) On July 20, 2009, the department caseworker sent claimant a Verification Checklist requesting verification of expenses and receipts of expenses.

(7) The worker attempted to verify the income and expenses with the company directly and asked them to interpret the pay stubs that the family submitted which was when the true amount of gross income was discovered.

(8) It was also discovered that the Department of Human Services had only been receiving partial pay stubs as the actual pay stubs are generally 4-5 pages long.

(9) The Department of Human Services caseworker determined that she could not adequately determine the gross income or allowable expenses that the family had in the [REDACTED] business.

(10) On December 4, 2009, the department caseworker sent claimant notice that her Food Assistance Program benefits would be cancelled effective December 4, 2009 based upon the department's determination that they could not verify claimant's income and expenses.

(11) On December 14, 2009, the claimant filed a request for a hearing to contest the department's negative action.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A person who runs his own business is self-employed. This includes selling goods, farming, direct services, and operating a facility that provides services. BEM, Item 500, p. 12.

Countable income from self-employment equal the total proceeds minus allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts.

Allowable expenses are the higher of:

- . 25% of the total proceeds, or
- . actual expenses if the client chooses to claim and verify the expenses. BEM, Item 500, p. 13-14.

Allowable expenses include:

- . Identifiable expenses of labor, stock, raw materials, seed, fertilizer, etc.
- . Interest and the principal on loans for equipment, real estate or income producing property.
- . Insurance premiums on loans for equipment, real estate and other income producing property.
- . Taxes paid on income-producing property.
- . Transportation costs while on the job (for example: fuel).
- . Purchase of capital equipment.
- . A child care provider's cost of meals for children. Do not allow costs for the provider's own children.

- . Any other identifiable expense of producing self-employment income **except** those listed below.

Do NOT deduct the following from self-employment income:

- . Depreciation on equipment, real estate or other capital investments.
- . A net loss from a previous period.
- . Federal, state and local income taxes.
- . Personal entertainment or other personal business expenses.
- . Money set aside for retirement. BEM, Item 500, p. 14.

Claimant testified on the record that she was providing the pay stubs but she and her husband did not receive receipts from [REDACTED]. Claimant alleges that she was providing the expenses to the department and that if she had known that she needed to provide even more information to the department she would have provided it.

On the Notice of Case Action, the department determined that the true gross amount that they were issued on the verifications that had been furnished to the department office were not the true accurate amounts. The worker received documentation from the employer as to the true gross amounts. The only thing the worker was not able to do was to give actual expenses and claimant had not provided the actual receipts of employment expenses to the department for reduction of the gross income.

This Administrative Law Judge finds that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Food Assistance Program benefits for failure to provide verification information as to claimant's actual expenses. Claimant did not provide receipts of expenses to the department and also did not provide a complete gross pay stub to the department. Therefore, the department was unable to accurately determine claimant's eligibility for Food Assistance Program benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it cancelled claimant's Food Assistance Program benefits for failure to provide accurate verification information.

Accordingly, the department's decision is AFFIRMED.

/s/  
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Landis Y. Lain  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: January 22, 2010

Date Mailed: January 25, 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.

LYL/vmc

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