

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: 2010-20499
Issue No: 2001/3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 4, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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, an in-person hearing was held on May 4, 2010.

ISSUE

Whether the department properly determined claimant's eligibility for Adult Medical Program (AMP) and Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) On or about April 2, 2009, claimant applied for AMP and FAP. Claimant indicated on her application that she lived alone. Claimant listed monthly self employment income of [REDACTED] and monthly self employment expenses of [REDACTED]. Department Exhibit A, pgs 21-36.

(2) April 20, 2009, the department sent claimant a Verification Checklist (DHS-3503) indicating required proofs and setting a due date of April 30, 2009. Included on the checklist were the following statements [need] “records for self employment income and expenses (DHS-431)” and “bring/send records of **all** income that you have.” Department Exhibit A, pg 16.

(3) FAP was certified and issued for the months of April 2009 through November 2009. The department prepared a budget for a household of one and used income figures as determined by claimant’s statements and proofs provided. Department Exhibit A, pg 6.

(4) On or about November 10, 2009, the department sent claimant written notice that her application for AMP was denied due to excess income and her FAP would close due to claimant’s failure to provide required proofs. Claimant Exhibit A, pg 22; Department Exhibit A, pgs 6-9.

(5) During December 2009, the department informed claimant several times that she needed to reapply for FAP if she wished to again receive benefits. The department informed claimant that AMP was not available due to closed enrollment. Claimant Exhibit A, pg 18; Department Exhibit A, pgs 1-5.

CONCLUSIONS OF LAW

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 (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department manuals provide the following policy statements and instructions for caseworkers:

Income eligibility exists when the program group's net income does not exceed the program group's income limit. The AMP limits in Reference Manuals (RFT) 236.

Use only countable income Use only available income. Available means income which is received or can reasonably be anticipated. Available income includes amounts garnished from income, joint income, and income received on behalf by his representative. Deduct [REDACTED] from a program group member's gross earnings. Then deduct 20 percent of the person's gross earnings. The total disregard cannot exceed the person's gross earnings. Bridges Eligibility Manual (BEM) 640; Title 19 Section 1115(a)(1).

In this case, claimant reported on her application gross earnings of [REDACTED]. At hearing, and in correspondence with the department, claimant asserted that she had no income "in the [REDACTED]." She also asserted that she had different amounts of income other than she had reported previously. Claimant asserted that she was not a household of one and that her household included her husband who is residing in another state and her daughter who is residing in another city. Claimant also asserted that she is not fluent in English and had difficulty understanding department applications, forms, and instructions.

After careful consideration of claimant's presentation at hearing and the content of correspondence claimant attached to her hearing request and contained in Claimant Exhibit A and Department Exhibit A, a preponderance of the evidence indicates that claimant is fluent in both speaking and understanding the English language.

In considering the same evidence, a preponderance of the evidence indicates that claimant operates a small computer consulting company with her husband in the [REDACTED]. During the time at issue, claimant received income from her business. The fact that the business operates in the [REDACTED] does not negate the fact that claimant's earnings

were countable income for both AMP and FAP during the time-frame of issue. Finding of Fact 1; BEM 640; RFT 232; Hearing Request; Claimant Exhibit A; Department Exhibit A.

A preponderance of the evidence contained in the record, establishes that claimant was a household of one during the time at issue. The monthly income limit for individuals in independent living is [REDACTED] Claimant clearly had excess income to qualify for AMP. Finding of Fact 1-5; Bridges Eligibility Manual (BEM) 640; Reference Manual (FRT) 236; Haring Request; Claimant Exhibit A; Department Exhibit A.

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).

Verification means documentation or other evidence to establish the accuracy of the claimant's oral or written statements. Obtain verification when required by policy; when required as a local office option; and when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory.

Tell the client what verification is required, how to obtain, and the due date. Use the DHS-3503 Verification Checklist to request verification. The client must obtain required verification but you must assist if they need and request help. Allow the client ten calendar days to provide the verification you request. Send a Negative Action Notice when the client indicates

refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. Bridges Administrative Manual (BAM) 130; 7 CFR 273.2(f).

Verify all non excluded income at application, including a program add prior to authorizing benefits; at member add; at redetermination; and when program policy requires a change be budgeted.

Verification may be from any of the following:

- Documents (example: pay stubs or award notice).
- Letter or document from class agency making the payment.
- Document from or collateral contact with a knowledgeable source.
- Electronic verification from a reliable source.
- Consolidated inquiry.

Bridges Eligibility Manual (BEM) 500; 7 CFR 273.9; Child Care and Development Block Grant of 1990 PL 101-508, Section 5105(a)*3); PL 108-447.

Verification for self-employment income includes business receipts; accounting or other business records; income tax returns; other acceptable method that provides needed information; and DHS-431, Self-Employment Statement. Verification of self-employment expenses is completed by receipts. BEM 502; 7 CFR 273.9; Child Care and Development Block Grant of 1990, PL 101-508 Section 5105(a)(3) PL 108-447.

In this case, the department authorized Food Assistance Program benefits based on claimant's statements regarding her self-employment income. Subsequent to the initial authorization of FAP benefits, claimant appears to have made numerous unclear, contradictory, and confusing statements regarding her income and household composition. Accordingly, the department requested proof of said statements. However, the record does not contain

documentary evidence the department issued a DHS-3503 Verification Checklist regarding the required proofs other than the initial checklist issued in April. A second Verification Checklist should have been issued indicating required proofs and setting a new deadline date. As the record contains no indication that the department properly notified claimant of required proofs prior to the November closure, the department has not met its burden of proof regarding the FAP closure. Accordingly, the department's action to terminate claimant's FAP cannot be upheld. Finding of Fact 1-5; Hearing Request; Claimant Exhibit A; Department Exhibit A.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined claimant's eligibility for Adult Medical Program benefits. The department did not properly determine claimant's eligibility for Food Assistance Program benefits.

Accordingly, the department's action is REVERSED in part. The department is to initiate a determination of claimant's eligibility for Food Assistance Program benefits effective 12-1-09 in compliance with department policy and this Decision and Order.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 29, 2010

Date Mailed: November 30, 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.

JAB/db

cc:

