

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: 2010-24094
Issue No: 2001; 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 7, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 April 7, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits for failure to return the required verification materials in January, 2010?
2. Did the department properly close the claimant's Adult Medical Program (AMP) benefits due to excess income in December, 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. The claimant applied for FAP benefits on December 10, 2009. During the interview, the claimant indicated that his friends and family gave him money each month to

provide for his expenses and spending money. The claimant was informed that this constituted income and would have to be declared and verified. (Department Exhibit 20 – 32)

2. The claimant also provided a copy of his lease, showing he is responsible for monthly payments of \$885. (Department Exhibit 15)

3. On December 10, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) that required the claimant to provide a letter or document from anyone providing him money by December 21, 2009. (Department Exhibit 13 – 14)

4. On January 13, 2010, the department mailed the claimant a Notice of Case Action (DHS-1605) that indicated his FAP benefits were closing because he failed to provide a required verification. (Department Exhibit 4 – 6)

5. On January 13, 2010, the claimant telephoned the department and indicated that his friends and family pay his bills directly—that no money is given to him. (Department Exhibit 7)

6. On January 14, 2010, the department received a letter from the Bankruptcy Law Office that indicated the claimant receives money from his family to pay his living expenses. (Department Exhibit 3)

7. The department budgeted the \$885 as the claimant had indicated that he received at least \$885 monthly from his family to pay his rent expense. This was excess income for the AMP program and the department pended his AMP case for closure on January 1, 2010. (Department Exhibit 1, 2)

8. The claimant submitted a hearing request on February 16, 2010.

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).

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 policy states:

**CLIENT OR AUTHORIZED REPRESENTATIVE
RESPONSIBILITIES**

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. PAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

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. PAM, Item 130, p. 4.

NONFINANCIAL ELIGIBILITY FACTORS

AMP-H

Private Health Care Coverage

A person who has private health care coverage is **not** eligible for AMP. Health care coverage includes comprehensive health insurance (see PRG) and enrollment in a medical care plan such as a health maintenance organization (HMO). Medicare is considered health insurance for AMP purposes. Persons whose coverage is limited to dental and/or vision coverage are eligible for AMP.

Note: The Indian Service and VA health benefits are not private health care coverage.

Employer Insurance Option

If an eligible person has access to employer sponsored health insurance, Department of Community Health (CDH) may provide the person with a voucher (equal in value to the cost of AMP) that can be used to join the employer sponsored plan. Enrollment in the employer sponsored plan would be in lieu of receiving AMP.

The DHS-1171, Assistance Application, page 6, has an option box (I would like more information about AMP employer sponsored insurance option) for clients to check for more information. When this box is checked Yes, the specialist should contact DCH at (517) 335-3526.

Other Nonfinancial Eligibility Factors

The AMP eligibility factors in the following items must be met:

- . PEM 220, Residence
- . PEM 223, Social Security Numbers
- . PEM 235, Citizenship/Alien Status
- . PEM 240, Age
- . PEM 256, Spousal/Parental Support
- . PEM 257, Third Party Resource Liability
- . PEM 265, Institutional Status
- . PEM 270, Pursuit of Benefits

Follow the SSDA application process and other administrative policies unless otherwise instructed in specific items or sections. PEM 640.

FINANCIAL ELIGIBILITY FACTORS

AMP-H

Group

Use AMP policy in PEM 214.

Assets

Determine countable assets based on AMP policy in PEM 400.

The program group's countable assets cannot exceed the AMP asset limit in PEM 400.

Income Eligibility

Application

Income eligibility exists when the program group's **net** income does not exceed the program group's AMP income limit.

Income Limit. The AMP income limits are in PRT 236. When the client's living arrangement changes during a month, use the living arrangement with the higher income limit.

COUNTABLE INCOME

AMP-H

Use only countable income. Countable income is income remaining after applying AMP policy in PEM 500. PEM 640.

AVAILABLE INCOME

AMP-H

Use only available income. Available means income which is received or can reasonably be anticipated. Available income includes amounts garnisheed from income, joint income, and income received on behalf of a person by his representative. See PEM 500 for details.

CONTRIBUTIONS FROM FAMILY AND FRIENDS

All Programs

Money given to a person by family or friends is the person's unearned income. Count the gross amount actually received.

Money diverted by an L/H patient to his community spouse or dependents at home per PEM 546 is a contribution. Count the gross amount actually received as the community spouse's or dependent's unearned income.

Sometimes policy deems someone's income (or a portion of someone's income) available to another person. Count deemed income whether or not it is actually contributed. PEM, Item 500, p. 10.

THIRD-PARTY ASSISTANCE

All Programs

Payment of a person's bills by a third party directly to the supplier using the third party's money is NOT income to the person.

If the third party is paying the bill instead of paying money due the person such as money owed for child support or owed on a loan, the payment is the person's unearned income. PEM, Item 500, p. 33.

In this case, the claimant's AMP case closed due to excess income and his FAP case closed for failure to provide required verifications. The claimant disputes both case closures.

The claimant applied for FAP benefits and had a personal interview on December 10, 2009. At that time, the claimant told the department worker that friends and family give him money to pay his expenses and so he has spending money. The department staff member informed the claimant that he must declare and verify what money he is given.

On December 10, 2009, the department mailed the claimant a Verification Checklist (DHS-3503) requiring him to provide a statement from the family and friends that give him the money as to how much and to whom they give the money. This information was never provided to the department. The claimant admits that the department staff member informed him he would have to provide a statement from each individual who gave him money. The claimant

also admits that he received the Verification Checklist. Despite being informed twice he would need to present this documentation, the claimant did not do so.

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Department policy directs the department to inform the client what verification is required, how to obtain it, and the due date, by using the DHS-3503, Verification Checklist, to request verification. BAM 130. The department did mail the claimant a Verification Checklist to request the information as policy directs. Department policy further states to allow the claimant ten calendar days to provide the information. If the claimant does not make a reasonable effort to provide the verification, a negative action notice is to be sent. BAM 130. The claimant did not call to request assistance or additional time. Thus, the department properly closed the claimant's FAP benefits when the information was not provided.

As the claimant had stated in his FAP interview that he received money from friends and family to pay his expenses, the department budgeted \$885 monthly as income to the claimant, which caused him to be excess income for the AMP program. The department documented the conversation with the claimant during the interview. The claimant stated "friends and family give him money every month to pay his expenses and so he has money."

The claimant now indicates that his family pays his expenses directly and that he doesn't receive the money. However, this is not consistent with the information he provided to the department up until the case closure. The only statement before the case closed was from the claimant during the personal interview, when he stated that he received money from his friends and family members. The department asked for further information from the claimant on these

circumstances by sending him the Verification Checklist. If the claimant had submitted further information, it could have been taken into account. However, the claimant did not submit any additional information. Thus, there was no evidence to dispute the claimant's initial statement that he is provided money by friends and family.

Further, even though it was after the case closure, it is noted that the first letter from the Bankruptcy Law Office, [REDACTED] to the department dated January 14, 2010, even indicates that the claimant "receives money from family to pay his living expenses." It wasn't until January 22, 2010, after the cases had closed that the claimant's attorney authored another letter that indicated he was "clarifying" that [REDACTED] family pays the expenses, not [REDACTED]. This is less than convincing as the previous letter and statement from the claimant himself, indicate that he receives money from his family and friends for spending money and to pay expenses. Further, it was not provided to the department until after the case closure.

Therefore, this Administrative Law Judge finds that the department acted appropriately by closing the claimant's AMP for excess income. No information was presented to the department that contradicted the claimant's statement that the money was gifted to him until after the case closure. Further, during the hearing, the claimant indicated that he is given spending money and money for food from his family (even while denying that he receives the money for his bills). So, it is clear that the claimant is receiving gifted money which must be verified in the event the claimant is to reapply for benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that

1. The department properly terminated the claimant's Food Assistance Program (FAP) benefits for failure to return the required verification materials in January, 2010.

2. The department properly closed the claimant's Adult Medical Program (AMP) benefits due to excess income in December, 2009.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 19, 2010

Date Mailed: May 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 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.

SLK 

cc:

