

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.: 2010-4462
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 6, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan on Wednesday, January 6, 2010. The Claimant appeared, along with [REDACTED] and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's FAP case effective September 30, 2009 and whether the Department properly calculated the Claimant's FAP allotment for October 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 is a FAP recipient.

2. In November 2008, the Department erroneously changed the Claimant's address from Detroit to Lansing.
3. The Claimant did not move from her residence.
4. On September 15, 2009, the Department sent a Notice of Redetermination Telephone Interview ("Notice") for October 2, 2009 to a Lansing address. (Exhibit 2)
5. In September of 2009, the Claimant notified the Department that her unemployment compensation benefits had ceased. (Exhibit 4)
6. On September 28, 2009, the Notice was returned to the Department as undeliverable.
7. On or about October 1, 2009, the Department pended the Claimant's FAP benefits for closure. (Exhibit 1)
8. On October 2, 2009, the Department sent a Notice of Missed Interview which was also returned as undeliverable. (Exhibit 3)
9. The Claimant's FAP case closed.
10. On October 14, 2009, the Claimant presented to the local office and was informed her FAP case had closed and that she needed to reapply.
11. On October 16, 2009, the Claimant completed the application process.
12. The Department ran a FAP budget and included unemployment compensation benefits that the Claimant was no longer receiving.
13. As a result, the Claimant's FAP allotment was calculated for the monthly amount of \$82.00.
14. The Claimant's group size is 2.
15. The Claimant pays \$400.00/month for shelter and is responsible for utilities.

16. On October 16, 2009, the Department received the Claimant's written request for hearing. (Exhibit 4)

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Department periodically re-evaluates cases to ensure continued eligibility for benefits. PAM 210 Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM 130 If no evidence is available, the Department should use its best judgment. PAM 130 Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended. PAM 130 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. PEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500

In the record presented, the Department erroneously changed the Claimant's address from her residence in Detroit to a Lansing address. The Claimant never lived in Lansing. In September, the redetermination package was mailed to the incorrect address thus the Claimant never received any notification. During this same month, the Claimant reported to the Department that her unemployment compensation benefits had ceased which should have resulted in an increase FAP benefits for the month of October 2009. Ultimately, the Department closed the Claimant's FAP case after not being able to complete the redetermination. Upon learning of the closure, the Claimant submitted a new application. The new application was processed however the Claimant's unearned income was improperly included. As a result, the Claimant's FAP allotment for the month of October 2009 was short. Based on the foregoing, it is found the Claimant's FAP case closed in error. Further, it is found that the Department improperly included unemployment income (which the Claimant did not receive) in the FAP budget resulting in a lower FAP allotment. Under these facts, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Claimant's case was closed in error.

Accordingly, it is ORDERED:

1. The Department's FAP determination is REVERSED.

2. The Department shall recalculate the Claimant's FAP benefits effective October 1, 2009 in accordance with department policy.
3. The Department shall supplement for any lost benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/12/2010

Date Mailed: 01/12/2010

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.

CMM/jlg

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