

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-8175
Issue No.: 1015/3002
Case No.: [REDACTED]
Hearing Date: January 5, 2011
Macomb County DHS (12)

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 held on January 5, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to excess income.
2. Whether DHS properly denied Claimant's redetermination for Medical Assistance (MA) and Food Assistance Program (FAP) benefits due to a failure by Claimant to verify income.

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 an ongoing FAP and MA benefit recipient.
2. On 10/5/10, DHS mailed a Verification Checklist to Claimant requesting verification of previously reported \$615/month gift income given to Claimant.
3. Claimant failed to return the income verification to DHS.

4. On an unspecified date, DHS terminated Claimant's ongoing FAP and MA benefits due to a failure by Claimant to verify the \$615/month in gift income.
5. On 10/27/10, Claimant submitted an Assistance Application for the purpose of applying for FIP benefits.
6. Claimant's Assistance Application indicated that Claimant received \$100/month in gift income from a family member.
7. On 11/8/10, DHS mailed Claimant a Notice of Case Action (Exhibit 3) denying Claimant's application for FIP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For all programs, a donation to an individual by family or friends is the individual's unearned income. BEM 503 at 8. DHS is to count the gross amount of income. *Id.*

DHS is to verify all non-excluded income at all of the following: application (including a program add, prior to authorizing benefits), at member add (only the income of the member being added), redetermination or when program policy requires a change be budgeted. *Id.* at 29.

In the present case, Claimant did not dispute that DHS had a basis to request verification of gift income and that DHS made such a request via Verification Checklist. Claimant's only contention was that she had no idea how DHS concluded that Claimant reported receiving \$615/month in gift income. Claimant initially testified that she "did not understand" the request because she had "never been gifted" that kind of income in her

life. Claimant further testified that she never received “cash from anybody” and that she never reported gift income to DHS.

In response to Claimant’s testimony, DHS presented an Assistance Application dated 3/2010 in which Claimant wrote that she received \$615/month in gift income from a family member. After Claimant was presented with this evidence which convincingly disproved her testimony, Claimant suddenly acknowledged that she reported the gift income to DHS. It is found that Claimant reported \$615/month in gift income to DHS and that DHS properly attempted to verify the income on 10/5/10.

It was not disputed that Claimant failed to verify the gift income concerning her MA and FAP benefits. Claimant’s failure to verify gift income is an appropriate basis to terminate her MA and FAP benefits. It is found that DHS properly terminated Claimant’s FAP and MA benefits due to Claimant’s failure to verify reported gift income.

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).

A request for program benefits begins with the filing of a DHS-1171 or other acceptable form. BAM 110 at 1. Before processing an application for FIP benefits, DHS may require a client to verify information within their application. As stated above, gift income must be verified and DHS must verify income at application.

In the present case, Claimant’s 10/27/10 application for FIP benefits stated that Claimant received \$100/month in gift income. Claimant testified that she only received \$100/month in items for her child and not a monthly income. The undersigned is not inclined to adopt Claimant’s testimony for two reasons. First, Claimant’s application for benefits made no mention of receiving items, only a monetary amount. The undersigned is inclined to accept Claimant’s own written statements over her contradictory testimony. Secondly, after Claimant’s testimony was disproven concerning her reporting of the gift income, all of Claimant’s testimony should be considered with skepticism. If Claimant was mistaken (at best) concerning one issue, it is appropriate to cast doubts on all of Claimant’s testimonial evidence. It is found that Claimant received \$100/month in gift income.

Though Claimant reported receiving \$100/month in gift income, DHS still had an obligation to attempt to verify it. In the present case, DHS testified that the Verification

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Checklist mailed 10/5/10 served as an appropriate verification request concerning Claimant's subsequently submitted application requesting FIP benefits. The DHS contention is improper on two accounts.

Firstly, there is simply no basis within DHS regulations that allow DHS to rely on a verification request made prior to the submission of an application. Secondly, the Notice of Case Action (Exhibit 3) stated that the basis for denial was excess income, not a failure to return verifications. The undersigned will consider the DHS denial based on excess income.

It was not disputed that Claimant's 10/27/10 application indicated that she receives \$100/month in gift income. Despite Claimant's statement, DHS determined her FIP benefits based on a previously reported \$615/month income. DHS should not have relied on the outdated income information. It is found that DHS erred in denying Claimant's application dated 10/27/10 requesting FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's MA and FAP benefits due to Claimant's failure to verify income. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application dated 10/27/10 for FIP benefits. It is ordered that DHS reinstate Claimant's FIP benefit application dated 10/27/10 and to make requests for income concerning the application in accordance with DHS regulations. The actions taken by DHS are PARTIALLY REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/18/2011

Date Mailed: 1/18/2011

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

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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.

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