STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████████,

        Claimant

Reg No: 2009-14258
Issue No: 3002
Case No: ████████
Load No: ████████
Hearing Date:
March 23, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted on March 23, 2009. The Claimant appeared and testified. Karen Christian and Michael Riley appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effectively.

FINDINGS OF FACT

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

1. The Claimant has received FAP benefits since August, 2006.

2. On October 14, 2008, Claimant reported an address change to the district office.

   At this time, Claimant was receiving $140.00 per month in FAP benefits.

3.   A new budget was then completed for food assistance dated 11/14/08 without a shelter expense. (Exhibit 3).

4.   Claimant testified that the Department mailed paperwork to Claimant for completion. This paperwork contained the name of another individual rather than Claimant.

5.   Claimant testified that she completed the paperwork and dropped it off at Cadillac Place.

6.   The Department could not testify, specifically, whether a Shelter Verification was requested from Claimant in conjunction with the 11/14/08 budget.

7.   The Department determined that Claimant was entitled to $40.00 per month in FAP benefits as a result of the 11/14/08 budget. (Exhibit 3).

8.   Claimant protested and filled out a Shelter Verification indicating that she has rent obligations in the amount of $500.00. (Exhibit 2).

9.   Claimant's FAP for the months of 11/08-2/09 did not reflect the budgeting of her shelter obligation.

10. The Shelter Verification indicates that Claimant has been renting since 10/1/08.

11. A second budget was compiled on 1/7/2009 and Claimant was awarded $132.00 per month in FAP benefits. (Exhibit 5). Claimant is not contesting this amount.

12. Claimant objected to the 11/14/08 FAP benefit calculation for the months 11/14/08 - 2/09 and filed this appeal. The Department received the Claimant's Request for Hearing on January 27, 2009.

<u>CONCLUSIONS OF LAW</u>

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 federal regulations define household income to include all unearned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Under 7 CFR 273.9, as amended, $135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

Shelter expenses are allowed when the FAP group has a shelter expense or contributes to the shelter expense. "Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed." PEM 554 at p. 9. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. Housing expenses include rent, mortgage . . . or other payments leading to ownership of the shelter occupied by the FAP group. The expense must be a continuing one. Allowable verification sources for shelter expenses include "mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company." PEM 554 at p. 10.

The Department is required to verify shelter expenses at application when a change is reported. If the client fails to verify a reported change in shelter, the Department is to remove the old expense until the new expense is verified. PEM 554, p. 10.

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. Id.

Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6. If neither the Claimant nor the Department can obtain verification despite a reasonable effort, then the Department should use the best available information. If no evidence is available, then the Department is instruction to use best judgment. PAM 130, p. 3.

In the present case, the Department did not provide any evidence showing that Claimant was requested to provide Shelter Verification. Claimant testified that she completed all the information that was sent to her. Since Claimant received a packet for another individual, it is likely that Claimant's packet was also incorrectly addressed and mailed. Furthermore, once Claimant was provided with the appropriate Shelter Verification form, Claimant completed it immediately and submitted it.

This Administrative Law Judge finds that the Department did not meet its burden of requesting Shelter Verification and, therefore, the Shelter expense should not have been removed from the 11/14/08 budget. The parties did not object to the current FAP award based on the 1/7/09 budget, so it will not be recalculated here.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is ORDERED:

1.   The Department's November 14, 2008 FAP eligibility determination is

     REVERSED.

2.   The Department shall recalculate the Claimant's FAP allotment from November

     14, 2008 through February 2009 to include the Claimant's shelter expense, per the

     1/7/09 budget and supplement the Claimant for any lost benefits she was

     otherwise eligible to receive in accordance with department policy.

                                   __/s/_____

                                    Jeanne M. VanderHeide
                                    Administrative Law Judge
                                    for Ismael Ahmed, Director
                                    Department of Human Services

Date Signed:_____04/03/09_____

Date Mailed:_____04/03/09_____

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.

JV/dj

cc:

JV/dj