

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: 2009-18975

Issue No: 3019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 20, 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 May 20, 2009. The Claimant appeared and testified. Karen Brenner, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective 2/19/09.

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 has received FAP benefits since July 2008.
2. Claimant's FAP benefits were originally calculated with a \$475.00 shelter obligation.

3. Subsequently, Claimant moved to her current address. Claimant properly reported the address change to the Department.
4. On 2/9/09, Claimant went into the [REDACTED] District office to discuss her case with her caseworker.
5. At this point, Claimant's address change was finally inputted into the Department system.
6. The Department learned that Claimant's shelter obligation was reduced from \$475.00/month to \$450.00/month.
7. The Department issued a negative action on 2/9/09, reduced Claimant's FAP benefits, and requested that Claimant turn in shelter verification by 2/19/09.
8. Claimant testified that she dropped off her shelter verification on 2/19/09 at the [REDACTED] District office.
9. However, Claimant's file was transferred to the [REDACTED] office on 2/17/09.
10. Claimant testified that she diligently tried to find her newly assigned caseworker to discuss the new shelter verification.
11. Claimant met with her new caseworker at the [REDACTED] office on 3/30/09. At this time, the shelter verification was added to Claimant's file and her FAP benefits were reduced accordingly. (Exhibit 1, pp. 1-4).
12. Claimant objected to the 2/9/09 negative action notice and filed this appeal. The Department received the Claimant's Request for Hearing on 3/30/09.

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 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, a standard 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 and 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.

In the present case, Claimant testified credibly that she turned in her shelter verification on 2/19/09. The Department acknowledged that Claimant followed proper procedure in changing her address. Furthermore, the Department could not provide any information regarding whether additional inquiries were presented to Claimant regarding her shelter verification. Considering that Claimant's case had already been transferred on 2/17/09 before Claimant turned in the paperwork, it is not surprising that the shelter verification was lost somewhere between the two departments. Accordingly, this Administrative Law Judge finds that Claimant provided a shelter verification within the requested time period.

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 calculation of FAP benefits without shelter obligation from 2/9/09 – 3/30/09 is REVERSED.

2. The Department's 2/9/09 negative action is deleted.
3. The Department shall recalculate the Claimant's FAP allotment from 2/9/09 through 3/30/09 to include the Claimant's shelter expense 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: 05/28/09

Date Mailed: 05/28/09

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:

[REDACTED]