

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: 2009-33518
Issue No: 3008
Case No: ██████████
Load No: ██████████
Hearing Date:
September 22, 2009
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from ██████████ on September 22, 2009.

ISSUE

Whether the Department properly denied Claimant's application for Food Assistance Program (FAP) benefits based upon her failure to provide requested verification(s)?

FINDINGS OF FACT

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

(1) On May 22, 2009, Claimant applied for FAP benefits and an in-person interview was conducted by the Department with Claimant, Claimant's husband (Nathanial) and Claimant's 3 day old baby. (Exhibit 10)

(2) On May 22, 2009, Claimant provided the Department her husband's April 24, 2009, May 1, 2009, May 8, 2009 and May 15, 2009 paystubs. The Department informed Claimant that it needed 30 days worth of income from the interview date and since [REDACTED] was going to receive a check that day, it would need that stub as well. (Exhibits 5-8)

(3) Claimant did not provide her husband's May 22, 2009 paystub to the Department.

(4) On June 16, 2009, the Department mailed Claimant a Verification Checklist, DHS-3503, with a due date of June 26, 2009. The 3503 listed Claimant's name only and asked for her last 30 days of check stubs or earnings statements and "Missing pay period amounts". (Exhibit 3)

(5) On June 25, 2009, the Department received a letter from Claimant's employer stating she had just returned from maternity leave and would receive her first paystub July 3, 2009. (Exhibit 4)

(6) On July 29, 2009, the Department mailed Claimant a Notice of Case Action informing her that her application for FAP benefits had been denied based upon her failure to provide requested verification(s). (Exhibit 1)

(7) On August 14, 2009, the Department received Claimant's hearing request protesting the denial of her FAP application.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505, p. 1 Use income from the **past 30 days** if it appears to accurately reflect what is expected to be received in the benefit month. **Note:** The 30 day period used can begin up to 30 days before the interview date or the date the information was requested. BEM 505, p. 5.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p.1 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4 If the client

cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4 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. BAM 130, p.4

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

In the instant case, Claimant attended the May 22, 2009 interview with a 3 day old baby. She had gathered and provided the Department with 4 weeks worth of her husband's paystubs (May 15th, May 8th, May 1st and April 24th) that were within 30 days of the interview date (April 22nd - May 22nd). Granted, the Department requested Claimant's husband's May 22, 2009 paystub at the interview and she subsequently failed to provide it, but she had already provided the Department with enough income information to process her FAP application. In addition, by the Department's own admission, the Verification Checklist was "confusing" given that it asked for 30 days worth of Claimant's income and missing pay period amounts with no mention of her husband, the date of the missing paystub, etc. Finally, Claimant responded to the Verification Checklist by providing a letter from her employer which stated that she had just returned to work after maternity leave. With the above said, I find that Claimant made a reasonable effort to provide the information requested by the Department.

With the above said, I do not find that the Department established that it acted in accordance with policy in denying Claimant's FAP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not act in accordance with policy in denying Claimant's FAP application.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

(1) Make a specific request to Claimant for any additional information needed to process Claimant's May 22, 2009 FAP application and then process the application based on the information on hand and/or received in response to the request.

(2) Issue Claimant supplemental benefits she is entitled to, if any.

(3) Notify Claimant in writing of the Department's revised determination.

(4) Claimant retains the right to request a hearing if she would like to contest the Department's revised determination.

_____/s/_____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 29, 2009

Date Mailed: September 30, 2009

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.

2009-33518/smb

SMB/db

cc:

