

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: 2009-9678
Issue No: [REDACTED]
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 5, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on March 5, 2009. The claimant personally appeared and testified, by and through her representative and interpreter, [REDACTED]

ISSUE

Did the department properly budget the claimant's FAP benefit in September, 2008?

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 was due for a FAP recertification in October, 2008.
2. The department mailed the claimant a Verification Checklist (DHS-3503) on August 26, 2008, requesting proof of income for the past 45 days, current bank statements,

record of any assets and proof of household expenses due by September 8, 2008. No in-person or telephone hearing was conducted with the claimant (Department Exhibit #2).

3. The claimant's representative, [REDACTED] completed the Assistance Application (DHS-1171) for the claimant, who signed it on September 1, 2008. The application is date stamped as being received by the department on September 2, 2008 (Department Exhibit #1).

4. In the application, the claimant listed a monthly rent of [REDACTED]. On the last page of the application (the "Notes" page), the claimant's representative indicated "Please note as of September 1, 2008, claimant moved to a new address which is on this application. Copy of the contract lease is inclosed (sic) with application if more info need it (sic), please feel free to contact the claimant." (Department Exhibit #1).

5. Enclosed with the application was an apartment lease, which showed the leaseholder, [REDACTED] and the other occupant was Souad Hana. The monthly rent term was listed as [REDACTED] per month (Department Exhibit #3).

6. The department ran a budget for the claimant effective September 1, 2008, that did not include any shelter expenses (Department Exhibit #7).

7. On October 2, 2008, the department mailed the claimant a Shelter Verification (DHS-3688) with a due date of October 13, 2008. This form was completed by the claimant's son (the leaseholder) and indicated claimant had a rent obligation of \$ [REDACTED] per month and all utilities (heat, electric and telephone). The form is date-stamped as received on October 13, 2008 (Department Exhibit #4).

8. The department then ran a budget for the claimant that included a \$ [REDACTED] rent obligation and a \$ [REDACTED] heat/utility obligation. The budget was effective November 1, 2008 (Department Exhibit #5).

9. The claimant submitted a hearing request, which was received by the department on November 18, 2008.

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. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.
- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See PAM 210. PAM, Item 130, p. 4.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and
- . the local office was at fault. PEM, Item 554, p. 2.

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. PEM, Item 554, p. 9.

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. PEM, Item 554, p. 10.

Verification Sources

Acceptable verification sources include, but are **not** limited to:

- . mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company
- . copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office
- . cancelled checks, receipts or money orders copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- . DHS-3688, Shelter Verification. A copy of this form will be sent to the FAP group and the specialist when a change of address is done on CIMS. The due date will be on the form. The specialist must monitor for return of the form and take appropriate action if it is or is **not** returned.
- . current lease. PEM, Item 554, pp. 10-11.

The department budgeted the claimant's FAP benefits with no shelter expenses for September and October, 2008. The department representative testified that the department had received no verification of shelter expenses from the claimant. However, in the Assistance Application (DHS-1171) the claimant indicated that she pays [REDACTED] in rent. The last page of the application indicates that the claimant moved to a new address on September 1, 2008, and that the lease is enclosed with the application. The lease indicates that the claimant's son, [REDACTED] [REDACTED] was the leaseholder and his mother, Souad Hana was an occupant. The monthly lease term was [REDACTED] per month.

Department policy requires an in-person or telephone interview with the claimant or her representative at the time of recertification. PAM 210. The department did not conduct any interview—personal or telephone. Policy indicates the department representative should review the verifications and reconcile any discrepancies. PAM 210. The department had an obligation to conduct an interview with the claimant. This interview would clearly have been the opportunity for the department to reconcile her statement of a \$ [REDACTED] expense of rent with the lease agreement.

Even if the interview wasn't conducted as required by policy, the department still has the obligation to give the client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. PAM 130, p 6. The department did have information that the claimant was paying rent of \$ [REDACTED]. If the department representative needed further verification or clarification, the department should have issued another Verification Checklist (DHS-3503) requesting further documentation.

The only document the department did send was a Shelter Verification form (DHS-3688), which was mailed to the claimant on October 2, 2008, with a due date of October 13, 2008. The claimant's son did fill the Shelter Verification form and it was received by the department on October 13, 2008. The department accepted this as verification of the claimant's rent and utility expense and then re-budgeted the FAP budget to include the rent and utilities.

However, the claimant lost FAP benefits for the months of September and October, as the department disallowed her shelter and utility expenses. Department policy indicates that the department should remove the old expense in a budget until the new expense is verified. However, in this case, the claimant did provide the requested verification (copy of the lease and the amount of rent). If the department had further questions, they should have clarified by

sending the claimant an additional Verification Checklist, speaking with the claimant or holding the interview as required by policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly disallowed the rent and utilities expense for the claimant in her September and October 2008 budget. Therefore, the department's action is REVERSED. The department shall:

1. Re-budget the claimant's FAP benefits for September and October to include the rent and utilities expenses.
2. Issue the claimant any supplemental FAP benefits that the claimant is entitled to after the re-budget.

SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 11, 2009

Date Mailed: March 12, 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.

[REDACTED]

cc:

[REDACTED]