

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: 2009-22451

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

June 30, 2009

Wayne 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 June 30, 2009.

ISSUE

Whether the Department properly reduced Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) On January 30, 2009, Claimant contacted the ██████████ to report that her shelter expense had increased from ██████████ to ██████████. (Exhibit 1)

(3) On January 30, 2009, the Change Center mailed Claimant a Shelter Verification (DHS-3688) and a Verification Checklist (DHS-3503) with a due date of February 9, 2009. (Exhibits 5, 6)

(4) On or about February 3, 2009, Claimant received the above documents and faxed the Shelter Verification to her landlord.

(5) Neither Claimant nor Claimant's landlord returned a completed Shelter Verification to the Department by the due date.

(6) On February 11, 2009, the Department completed a FAP budget without a shelter expense which resulted in Claimant's FAP benefits being reduced from [REDACTED] to [REDACTED] per month. (Exhibits 2, 3)

(7) On February 11, 2009, the Department mailed Claimant an Eligibility Notice which explained the reduction. (Exhibit 4)

(8) On March 2, 2009, the Department received the Claimant's hearing request protesting the reduction of her FAP benefits. (Exhibit 7)

(9) On March 12, 2009, Claimant's landlord filled out a Shelter Verification and returned it to Claimant. Claimant's shelter expense is [REDACTED]/mo. Claimant gave a copy to the Department at the time of hearing. (Exhibit 11)

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

Expenses should be allowed if the service is provided by someone outside the FAP group, and someone in the FAP group has the responsibility to pay for the service in money, and verification is provided, if required. The Department must verify the responsibility to pay and the amount of certain expenses and cannot budget expenses that require verification until the verification is provided. It must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. PEM 554, p. 1-2.

In the instant case, Claimant reported an increase in her shelter expense to the [REDACTED]. There is no dispute that she and/or her landlord did not provide a Shelter Verification to the Department by the due date. However, as opposed to just keeping the shelter expense “as is”, the Department removed her shelter expense altogether. I believe Department policy dictates that it cannot allow an expense if proper verification is not provided. However, in this situation, Claimant’s shelter expense had already been verified and budgeted by the Department. Claimant then reported an increase in shelter expense, but did not provide proper verification. The Department should not have budgeted the increased shelter expense as opposed to removing it altogether under these circumstances.

With the above said, I do not find that the Department established that it acted in accordance with policy in computing Claimant’s FAP allotment.

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 reducing Claimant’s FAP benefits.

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

- (1) Reinstate Claimant’s FAP benefits retroactive to the effective date of the reduction.
- (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: July 7, 2009

Date Mailed: July 7, 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.

SMB/db

cc:

[REDACTED]