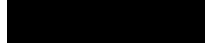


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant,

Reg No: 2009-24809

Issue No: 3002

Case No:

Load No:

Hearing Date:

July 9, 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 has conducted from Detroit, Michigan on July 9, 2009. The Claimant appeared and testified. Titicia Rosen, FIM appeared for the Department.

ISSUE

Whether the Department properly reduced Claimant's FAP benefits based on lack of shelter verification?

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 a FAP recipient.
2. Claimant leased a new apartment in March of 2009 and reported the change to the change center.

3. On 4/28/09, Claimant turned in the application to lease her apartment dated 11/1/08 which stated that an apartment was available for her to lease on 12/30/08 for the amount of \$650.00/month.
4. A new FAP budget was run on 5/21/09 without shelter obligation awarding Claimant \$110.00 in FAP benefits. (Exhibit 1, pp. 3-4). The Department determined that this budget was inaccurate because Claimant does not have an obligation to pay for heat.
5. A second FAP budget was run on 5/22/09 without shelter obligation awarding Claimant \$91.00/month in FAP benefits. (Exhibit 1, pp. 13-14). The Department determined that this budget was inaccurate because customer submitted verification of her current lease obligation.
6. A third FAP budget was run on 6/3/09, including the shelter obligation, resulting in an award of \$185.00 in FAP benefits. (Exhibit 1, pp. 17-18).
7. Claimant testified that the income and shelter information used in the 6/3/09 budget was accurate.
8. On May 28, 2009, the Department received the Claimant's hearing request protesting the termination of the FAP benefits.
9. The Claimant's benefits have been supplemented for May and June.
10. Claimant is requesting that benefits be supplemented for April as well.

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”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 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. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3.

The responsibility to pay and the amount of certain expenses must be verified. In fact, the Department is not allowed to budget expenses that require verification until the verification is provided. Shelter expenses must be verified at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department must remove the old expense from the budget until the new expense is verified. PEM 544.

Acceptable shelter 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 order 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 form. 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 544, p. 10-11.

In the record presented, Claimant provided information to the Department on April 28, 2009 regarding her shelter. However, this information did not qualify as verification of her current shelter expense under the regulations. The rental application showed only the lease amount that would be applied if Claimant rented the apartment. It did not show the actual amount and dates to which Claimant was obligated for rent. Under the regulations, the Department was not allowed to include the shelter obligation until valid verification was provided.

The Department received valid verification of Claimant's current lease on May 22, 2009. Directly after receiving the shelter verification, a new budget was run. Furthermore, once Claimant's shelter verification was turned in, Claimant's May and June benefits were supplemented. Therefore, Claimant has not been denied any benefits since turning in the rental lease.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly applied the shelter obligation to Claimant's FAP budget after verification was received.

Accordingly, the Department's FAP determination is AFFIRMED.

/s/

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

Date Signed: 07/28/09

Date Mailed: 07/31/09

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:

