

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: 2009-33360
Issue No: 3023
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 17, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on September 17, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's request for food replacement?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On July 1, 2009, Claimant's apartment caught fire and she lost her belongings and food.
- (3) On July 8, 2009, Claimant submitted a DHS-601 Food Replacement Affidavit.

(4) On July 10, 2009, Claimant was sent an Application Eligibility Notice form (DHS-1150) stating her food replacement request was denied.

(5) On August 10, 2009, Claimant submitted a request for hearing.

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).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BAM 502 FOOD BENEFIT REPLACEMENT

DEPARTMENT POLICY

Food Assistance recipients may be issued a replacement of food that has been reported:

- Destroyed in a domestic misfortune or disaster.

Client Responsibilities

Replacements and reauthorizations are processed **only** if the client reports the loss timely. Timely means within 10 days if the loss is due to misfortune or disaster.

Food Destroyed in a Domestic Misfortune or Disaster

Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical outages. Verify the circumstances through a collateral contact, a community agency, utility company or a home visit, and note it on the DHS-601, Replacement Affidavit.

Discuss with the client the amount of food lost as a result of the misfortune or disaster. Replace the amount the client states they have lost up to the value of the current month's allotment. The food does **not** have to come from the current month, however the client must complete the DHS-601, Food Replacement Affidavit, form describing the loss. Replacement cannot exceed the current month's benefit.

The Department representative testified that in order for the food to be replaced, it must have been purchased during the same month in which the disaster occurred. The current version of the policy clearly states the food does not have to come from the current month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's request for food replacement.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that the Department process Claimant's DHS-601 Food Replacement Affidavit dated July 8, 2009 in accordance with BAM 502.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 7, 2009

Date Mailed: October 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.

GFH [REDACTED]

cc:

[REDACTED]