

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: 201010543
Issue No: 3002;3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 20, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 January 20, 2010.

ISSUE

Were the claimant's FAP benefits changed at the appropriate time after a reported change?

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 a FAP recipient in Oakland County.
- (2) Claimant was receiving \$141 in FAP benefits in September, 2009.
- (3) This amount was based upon claimant's income and shelter expense amount.
- (4) Claimant had a redetermination on September 9, 2009.

- (5) During this interview, claimant told DHS that she will be moving, but did not provide a date or any other specifics.
- (6) On September 20, 2009, claimant entered into a lease that would take effect on October 1, 2009.
- (7) Claimant did not report this change until sometime after this date.
- (8) These changes were applied to claimant's November benefit month.
- (9) Claimant requested a hearing on November 2, 2009, arguing that new FAP benefits should have been awarded for the benefit months of September and October.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For non-income changes, the FAP eligibility determination and required case actions must be completed in time to affect the benefit month that occurs ten days after the change is reported.

Claimant's lease shows that it was entered into on September 20, 2009. In order for this change to have affected the benefit month of October 2009, it would have to have been reported on or before September 20, 2009, which is 10 days before the new benefit month of October.

Claimant was unable to provide evidence that this change was reported to the Department on or before this date. While claimant testified that she had reported this change on September 16, claimant also, at various points in her testimony, reported October 16, October 1, and September 9. The undersigned, for that reason, is unable to assign claimant's testimony alone any great weight.

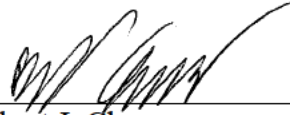
While claimant did report on her September 9, 2009 contact form that she "will be moving", this statement did not contain any particular date or specificity to signify anything other than claimant's intent to move sometime in the future. That move, based upon that statement could have meant in the next few days, and it also could have meant in the next few months. The Department can not be faulted for failing to act upon such a vague statement.

Given that the evidence of records shows that claimant would have had only a few hours upon entering the contract to notify the Department of her new housing situation, and given the claimant's wildly inconsistent testimony, the Department's testimony that the claimant did not notify them of the move until after October 1st, and the lack of any evidence in the record to show that claimant notified the Department of the move on September 20th, the undersigned finds that the great weight of the evidence shows that the claimant did not notify the Department of her intent to move until it was too late for the Department to process a change in time for the October benefit month. Therefore, the Department's decision to change claimant's benefit amount for the November benefit month was correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was eligible for a FAP benefit increase in the month of November, 2009.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/22/10

Date Mailed: 03/26/10

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.

RJC/dj

cc:

