

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: 2010-16152

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 9, 2010

Cass 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 [REDACTED] on March 9, 2010.

ISSUE

Whether the Department properly terminated Claimant's Food Assistance Program (FAP) case based upon her failure to provide requested verification(s)?

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.
- (2) On December 2, 2009, the Department received Claimant's Redetermination, DHS-1010. (Exhibit 3)

(3) On December 9, 2009, the Department sent Claimant a Verification Checklist with a due date of December 21, 2009. The Department requested that Claimant provide verification of home insurance (current insurance company statement) and of other unearned income (recent check stub and letter or document from person/agency making payment). (Exhibit 2)

(4) There is a dispute regarding what tax information the Department states that it received from Claimant and what Claimant states that if dropped off for the Department in December 2009.

(5) On December 22, 2009, the Department sent Claimant a Notice of Case Action informing her that her FAP benefits were terminated effective January 1, 2010 for failure to verify necessary information. (Exhibit 1)

(6) Specifically, the Department closed Claimant's FAP case because she did not provide a Schedule C. Claimant does not file a Schedule C with her tax return, she files a Schedule E.

(7) On January 5, 2010, the Department received Claimant's hearing request protesting the termination of her FAP benefits.

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

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p.1 Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as local office option or information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, p.1 The Department uses documents, collateral contacts or home calls to verify information. BAM 130, p.1 A collateral contact is a direct contact with a person, organization or agency to verify information from the client. BAM 130, p. 2 When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4 If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 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. BAM 130, p.4

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

In the instant case, the Verification Checklist sent to Claimant does not request that she provide the Department with a Schedule C. Any oral request made by the Department for a Schedule C would have been to verify if Claimant had any deductible expenses, a benefit to Claimant. However, Claimant does not file a Schedule C because she has no expenses related to her rental income. Claimant's rental income is reported on Schedule E which the Department used to calculate Claimant's eligibility when she reapplied for FAP benefits in February 2010. With the above said, I find that Claimant made a reasonable attempt to provide the verification requested by the Department. Therefore, I do not find that the Department established that it acted in accordance with policy in terminating Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in terminating Claimant's FAP benefits.

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

- (1) Use the documentation it used to calculate Claimant's FAP eligibility when she reapplied for FAP benefits in February 2010 to calculate her eligibility for January 2010, the month that Claimant did not receive FAP benefits as a result of the verification issue.
- (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: March 17, 2010

Date Mailed: March 17, 2010

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:

