

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: 2010-37097
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 22, 2010
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on May 24, 2010. After due notice, a telephone hearing was held on Tuesday, June 22, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

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 receives FAP benefits as a group of one. Department Exhibit 17.
- (2) The Claimant changed his residence on April 2, 2010. Department Exhibit 18.
- (3) On May 18, 2010, the Department completed a FAP budget that determined the Claimant was entitled to a monthly FAP allotment of [REDACTED]. Department Exhibit 15.

(4) On May 24, 2010, the Department received verification of the Claimant's housing expenses. Department Exhibit 18.

(5) The Department received the Claimant's request for an appeal on May 24, 2010, protesting the reduction of his FAP allotment.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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), Reference Table Manual (RFT), 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 a 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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105. Changes that must be reported within 10 days include address and shelter cost changes that result from the move. BAM 105.

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554. The expense must be a continuing one, but does not have to be paid to be allowed. BEM 554. Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified. BEM 554.

The Claimant moved to a new residence on April 2, 2010. On May 18, 2010, the Department completed a FAP budget for June that did not include housing expenses, because the Claimant had not verified expenses for his new residence. The Department received verification of the Claimant's housing expenses on May 24, 2010. The Department completed a FAP budget for July of 2010, which also did not include housing expenses. The Department did not include his housing expenses in its determination of the Claimant's FAP eligibility, and this caused a decrease in his FAP allotment from [REDACTED] for the months of June and July.

On April 24, 2010, the Claimant gave the Department a receipt dated April 2, 2010, showing that he had a rent expense of [REDACTED] and a security deposit of [REDACTED], but only paid [REDACTED] of his obligation. On May 18, 2010, the Department properly determined the Claimant's eligibility for FAP benefits effective June 1, 2010, and its failure to include the Claimant's housing expenses was proper because the Claimant had not fulfilled his duty to report a change in circumstances within 10 days.

The Department received verification of the Claimant's housing expenses on May 24, 2010. These receipts show a monthly rent expense of [REDACTED], a security deposit of [REDACTED] and document that the Claimant did not pay the full amounts due. A security deposit is not a continuing expense, and the Department does not use it to determine a person's FAP eligibility. The receipts do not indicate that the Claimant was charged any late fees.

The Department did not include the Claimant's housing expenses when it determined his FAP allotment for July of 2010. The Claimant's housing expenses should have been included in his FAP budget for July of 2010, because the Department had received adequate verification of these expenses on May 24, 2010. Therefore, the Department had not established that it properly determined the Claimant's eligibility for FAP benefits effective July 1, 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility effective June 1, 2010.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's eligibility for FAP benefits as of July 1, 2010.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

- (1) Initiate a redetermination of the Claimant's eligibility for FAP benefits as of July 1, 2010.
- (2) Issue the Claimant any retroactive benefits he may be eligible for, if any.

(3) Notify the Claimant in writing of the Department's revised eligibility determination.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 29, 2010

Date Mailed: June 30, 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.

KS/vc

cc:

