

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201044009
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 18, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 was held on August 18, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

1. Whether Claimant timely requested a hearing concerning her Food Assistance program (FAP) benefit issuances from 12/09-3/10.
2. Whether DHS properly calculated Claimant's FAP issuance beginning 4/2010.

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 applied for FAP benefits in 1/2010.
2. At Claimant's initial interview for FAP benefits, Claimant submitted a lease and rent receipts verifying her monthly rent of \$585/month.
3. Beginning with 1/2010 and continuing to the present, DHS did not budget Claimant's rent in determining her eligibility for FAP benefits.
4. On 2/25/10, DHS mailed a Notice of Case Action given Claimant notice of the following FAP benefit issuances: \$25 in 1/2010, \$46 in 2/2010 and \$53 in 3/2010.

5. On 4/2/10, DHS mailed Claimant a Notice of Case Action increasing Claimant's FAP benefits to \$69 for 5/2010.
6. On 7/13/10, Claimant requested a hearing disputing the amounts of her FAP issuances between 12/2009 through 8/2010.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

BAM 600 covers the DHS policy for administrative hearings including deadlines for clients to file hearing requests. Clients have 90 calendar days from the date of the written notice of the DHS case action to request a hearing. BAM 600 at 4. Clients may protest their current amount of FAP benefits at any time during a FAP benefits period. *Id.*

In the present case, the DHS mailed Claimant a written notice concerning Claimant's FAP issuances from 1/2010-3/2010 on 2/25/10. DHS mailed Claimant a Notice of Case Action concerning her 4/2010 FAP benefit issuance on 3/19/10. DHS mailed Claimant a Notice of Case Action concerning her 5/2010 FAP benefit issuance on 4/2/10. Claimant requested a hearing on 7/13/10, a date more than 90 days after DHS mailed the notices concerning her FAP benefit issuances from 1/2010-5/2010. It is found that Claimant failed to timely request a hearing concerning her FAP benefit issuances from 1/2010-5/2010.

Claimant also disputes her FAP benefit issuances from 6/2010 to the present. Claimant contends that DHS failed to give her credit for paying rent despite submitting verifications of her rent at her initial interview for FAP benefits. The submitted FAP budgets confirm that DHS did not budget any expense for Claimant's rent.


A housing expense (e.g.- rent, mortgage, lot rent...) is a factor in determining a Claimant's eligibility for FAP benefits. BEM 554 at 1. Rent receipts and a lease are both acceptable forms of verifying the housing obligation. *Id.* at 11.

Claimant credibly testified that she pays \$585/month in rent. Claimant stated that she presented a lease and rent receipts on the day of her initial interview in 1/2010. DHS was unable to rebut Claimant's testimony. DHS did not address the issue in the Hearing Summary, did not provide any first-hand testimony contradicting Claimant and did not even have the case file so that it could be searched for Claimant's verifications. It is found that Claimant submitted verification of her rent in 1/2010. It is also found that DHS should have included the rent obligation beginning with FAP benefit month 6/2010.

DECISION AND ORDER

Claimant's hearing request is DISMISSED in part. It is found that Claimant's hearing request was untimely to protest her FAP benefit issuances between 12/2009-5/2010.

The actions taken by DHS are REVERSED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly calculated Claimant's FAP benefits from 6/2010 to the present. It is ordered that DHS recalculate Claimant's FAP benefits from 6/2010 giving Claimant credit for paying \$585/month in rent based on Claimant's previously submitted rent verification.


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 1, 2010

Date Mailed: September 1, 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.

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