

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: 2010-6881
Issue No: 3002;3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 2010
Wayne 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 7, 2010.

ISSUE

Was the claimant's FAP allocation properly computed?

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 Wayne County.
- (2) In September 2009, claimant was due for a semi-annual contact.
- (3) Claimant reported all information for her semi-annual contact, and benefits were changed in October 2009 to \$131 from \$331.
- (4) Claimant moved to a new residence on [REDACTED].

- (5) On October 21, 2009, the Department received a hearing request disputing claimant's FAP allotment, stating, among other things, that claimant had new expenses.
- (6) These new expenses were claimant's new shelter expenses.
- (7) As of the date of the hearing, the Department has taken no action requesting verification of these expenses.

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).

A DHS-1171, Assistance Application must be completed when eligibility is determined. BAM 210. An application is considered incomplete until it contains enough information to determine eligibility. BAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. BAM 130.

Furthermore, any reported changes that result in benefit increases take effect for the first allotment 10 days after the change was reported. BAM 220.

The Department contends that claimant did not report her new expenses on her semi-annual contact, and thus, the benefit levels at the time of the semi-annual determination were correct. The Administrative Law Judge agrees with that position. The great weight of the evidence shows that claimant did not report her residence change at the time of the determination; therefore, the Department was unaware of the change. Regardless, the change, by claimant's own testimony, did not happen until October 1, 2009. Claimant's semi-annual contact took place during the month of September. No change could have taken effect, even if we assume claimant reported on October 1, until the November benefit month. BAM 220.

However, while that the Department's initial position is correct, the undersigned is of the opinion that the Department still failed to process a reported change.

Claimant's hearing request, marked as received by the Department on October 21, 2009, states that her expenses have increased. The Department never asked for verification of those increases, nor did it inquire as to what those increases were. While this statement from the claimant is admittedly vague, the policy contains no statement as to the required specificity of a reported change, only that a change must be reported. Claimant may have reported the change on a hearing request, but this hearing request did reach the eyes of claimant's caseworker, and as such, should have notified the caseworker that claimant's circumstances was changed.

As such, the correct course of action was, upon receipt of the hearing request that reported the change in expenses, to send an immediate request for verifications of claimant's expense increases. If claimant failed to return adequate verifications, the Department could have refused to process the change, as long as it did so in a manner consistent with policy.

However, the Department did not request verifications from the claimant. As claimant reported the change on October 21, the first month that should have been affected, had claimant

provided verifications, would be November, 2009. As such, the Department was in error when it did not re-process claimant's FAP allocation effective that month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's failure to process the change in claimant's shelter expenses was incorrect.

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

The Department is ORDERED to re-process claimant's FAP allocation budget, using the shelter expenses already provided to the Department, effective for the month of November, 2009 onward.



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

Date Signed: 03/01/10

Date Mailed: 03/05/10

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:

