

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: 201012654
Issue No: 3022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 28, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 received by the Department on October 7, 2009. After due notice, a telephone hearing was conducted from Detroit, Michigan on January 28, 2010. The Claimant appeared and testified. Susan Wright, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly reduced the Claimant's Food Assistance Program ("FAP") benefits due to a failure to timely return verifications?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant was an active FAP recipient up for review.

2. A verification request was mailed to Claimant on 5/21/09 with a due date of 5/31/09. (Exhibit 1, p. 18).
3. Claimant testified that she submitted verifications a week or so late by U.S. mail.
4. Claimant testified that she submitted the verifications a second time in person at the end of the summer, 2009.
5. The Department calculated FAP benefits without said verifications after they were not received by 6/10/10. Claimant was awarded \$28.00 per month in FAP benefits. (Exhibit 1, p. 8).
6. Claimant's FAP benefits decreased to \$27.00 per month effective 10/1/09. (Exhibit 1, p. 14).
7. Claimant testified that she lives alone.
8. Claimant testified that the unearned income used by the Department was accurate.
9. Claimant testified that she pays \$181.00 per month in rent and is also responsible for her electric and telephone bills.
10. On October 7, 2009, the Department received the Claimant's Request for Hearing protesting the reduction of the FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, 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 Reference Tables (“RFT”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the 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. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. 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.

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM/BEM 550. Under 7 CFR 273.9, as amended, \$135.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM/BEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. RFT 255. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

When calculating the benefit amount, according to PEM/BEM 556, the Shelter set offs are added together to equal A. The income after deductions is divided by two and equals B. $A - B = C$. The lesser of C or the maximum shelter amount set forth in RFT 255 will be deducted

from the reduced income in determining the final net amount. The amount of food assistance allotment is established by regulations at 7 CFR 273.10 based on a group's net income.

In this case, the Claimant testified credibly that she turned in her verifications following receipt of the verification notice and then again in the drop box at the end of the summer. Claimant admits that her verifications were submitted late the first time. As a result, the Department was correct in initially issuing FAP benefits with the information provided. Upon receipt of the verifications, however, the Department should have recalculated benefits as set forth below. The Administrative Law Judge finds that Claimant submitted the requested verifications in June, 2009 after the due date.

In the present case, according to the aforementioned policy on budgeting, Claimant's shelter costs equal $\$181.00 + \$102.00 + 34.00 = \$317.00$ (A). 50% of the income less deductions = $\$286.50$ (B). $(A-\$317)-(B-\$286)=\$31.00$. Claimant has a net monthly income of $\$542.00$. This was obtained by subtracting the standard deduction of $\$135.00$ and the maximum excess shelter amount of $\$31.00$ from the gross income of $\$708.00$. A household of one person with a net monthly income of $\$542.00$ is entitled to a monthly FAP grant of $\$37.00$ per month. RFT 260.

Accordingly, it is found that the Department's reduction of the Claimant's FAP benefits is REVERSED.

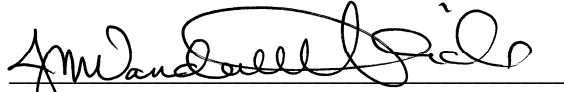
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's determination to decrease the Claimant's FAP benefits is REVERSED.

2. The Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive pursuant to the budget set forth above from July, 2009 through the present.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/09/10

Date Mailed: 03/12/10

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.

JV/dj

cc:

