

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: 201012803
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 27, 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 27, 2010.

ISSUE

Did the Department correctly remove claimant's shelter allowance from the expense budgeting of claimant's FAP allotment?

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 had a FAP redetermination in January, 2009.
- (2) Claimant was to turn in shelter verification in order to determine shelter expenses, which the Department felt were questionable.

- (3) Claimant turned in a copy of her current lease, which showed a total rental amount of \$900.
- (4) Claimant had stated that she paid \$507 in rent, not the total \$900 that the lease showed, leading to the Department's determination of questionable.
- (5) Claimant never claimed a change in her shelter.
- (6) Claimant's lease showed a total rent of \$900; however this lease also showed that the [REDACTED] would pay roughly 43% of the rent and claimant would pay roughly 56% of the rent.
- (7) Claimant's rough 56% of the rent equaled \$507, or exactly what she told the Department.
- (8) Because claimant did not submit any other verification, the Department denied claimant the use of shelter expenses.
- (9) On September 21, 2009, claimant requested a hearing as to her FAP allotment.

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).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless

specifically excluded. BEM, Item 500. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2.

Shelter expenses are allowed when the FAP group has a shelter expense or contributes to the shelter expense. Shelter expenses are to be verified 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.

Acceptable shelter verification sources include, but are **not** limited to: DHS-3688, Shelter Verification form, and cancelled checks, receipts or money order copies, or the current lease. BEM 554.

Furthermore, verification can be required when an eligibility statement is questionable. BAM 130.

According to Department notes, claimant told the Department that her rent was \$507. The lease she submitted as verification showed that her total lease amount was \$900. The Department felt that this amount was questionable, and requested verification of the new amount. Claimant failed to do so, and had her shelter expenses removed from her FAP budget.

The Administrative Law Judge will first note that shelter expenses are only to be verified at application or when a change is reported. BEM 554. Claimant did not report a change in her shelter expense, and these events did not take place at application. Therefore, the Department should not have been seeking her lease in the first place.

That being said, verification may also be requested when an eligibility factor is questionable. The Department felt, according to case notes, the fact that the claimant's lease showed a \$900 total rent and claimant stated that her rent was only \$507 made the lease questionable. The undersigned has reviewed the lease and is of the opinion that the Department was in error in finding that claimant's statements were questionable.

The lease submitted by the claimant does indeed show a \$900 total rent. However, this lease also shows that claimant was only responsible for part of that rent. Part of the bottom of the lease has been cut off, leaving only the top half of the number which shows the [REDACTED] subsidized payment. However, the numbers given for the pro-rated rental amount provide enough information to extrapolate claimant's payment responsibility.

The pro-rated rental amount for the first month is \$610. Claimant was responsible for paying \$344 of that amount, which is 56.393% of the total rental amount. 56.393% of \$900 is \$507, or exactly what the claimant told the Department her rent was. Furthermore, an examination of the cut-off numbers at the bottom of the page certainly looks like the [REDACTED] had a responsibility of \$393 of the rent, which would leave claimant with a \$507 rent.

Therefore, the claimant's rental amount was exactly what she stated it was, and matched the lease. For that reason, the undersigned holds that the claimant submitted adequate verification, and her statements to the Department regarding her rental payment were not questionable. Regardless, claimant was not required to submit shelter verifications, because she did not report a change in her shelter at redetermination.

However, because claimant requested her hearing on the matter so far after the actual Department action on the matter, the undersigned can only remedy the situation so far back. BAM 600 holds that a claimant may request a review of FAP benefits at anytime. Claimant has

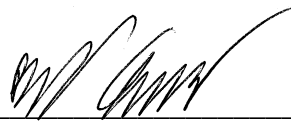
90 days to request a hearing. Therefore, the undersigned can only order retroactive benefits up to 90 days prior to the hearing request. Claimant requested her hearing on September 21, 2009. 90 days prior to September 21, 2009, is June 21, 2009. Therefore, the benefit month of July, 2009 shall be the first month affected by any budget that takes into account claimant's shelter expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to allot claimant FAP benefits in the amount of \$141 by disallowing claimant's shelter expense was incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to recalculate claimant's FAP budget retroactively to the date of June 21, 2009, allowing the shelter expense as claimed and issuing appropriate supplemental benefits in accordance with Bridges Eligibility Manual.



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

Date Signed: 03/22/10

Date Mailed: 03/26/10

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.

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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:

