

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: 2010-20157
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 telephone hearing was held on March 18, 2010.

ISSUE

Whether the Department of Human Services (Department) properly computed the Claimant's Food Assistance Program (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 is a FAP recipient.
- (2) On December 15, 2010, the Department sent the Claimant a Redetermination form (DHS-1010), which the Claimant returned in a timely manner.

(3) On January 12, 2010, the Department received verification on a Shelter Verification form (DHS-3688) of Claimant's monthly shelter expenses of [REDACTED], which includes heat, electric, water/sewer, cooking fuel, and trash removal. (Department Exhibit 1)

(4) Claimant has monthly child support payments of [REDACTED]

(5) On January 13, 2010, the Department completed a FAP budget, which resulted in a reduction in Claimant's monthly FAP allotment to [REDACTED]

(6) The Department received additional housing expense verification documents on January 27, 2010.

(7) On January 25, 2010, the Department received a request for a hearing, protesting the reduction in 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, p. 2. Before determining eligibility, the Department shall give the client a reasonable opportunity to resolve any discrepancy between his statements and information from any other source. BAM 130, p. 6.

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

Before determining eligibility, the Department shall give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130.

Claimant's housing expenses are based on a Shelter Verification (DHS-3688) that he provided to his landlord. This form documents Claimant's housing expenses of [REDACTED] including heat, electric, water/sewer, cooking fuel, and trash removal. After Claimant's FAP allotment was calculated on January 13, 2010, the Department received a letter from Claimant's landlord, which indicated different housing expenses than the Shelter Verification form. This letter specifies that Claimant's has a [REDACTED] monthly shelter expense, and a [REDACTED] monthly heat expense. This change in circumstances was not used to compute a new FAP budget. The Department failed to establish at the hearing that it gave the Claimant a reasonable opportunity to resolve any discrepancy between the two housing expense verifications.

Claimant's adjusted gross income is calculated by subtracting the standard deduction and child support expenses from his total income. The Department testified that there was no dispute that Claimant's child support expenses are [REDACTED] monthly. However, the Department considered child support expenses of [REDACTED] in Claimant's FAP budget on January 13, 2010. This reduced monthly child support expense reduces Claimant's FAP allotment. The Department failed to establish that it used the correct child support expenses when determining Claimant's FAP allotment.

Based on the testimony and documentation offered during the hearing, this Administrative Law Judge does not find that the Department established that it acted in accordance with policy in computing Claimant's FAP eligibility for February 2010.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act in accordance with policy in computing Claimant's FAP eligibility for February 2010.

Accordingly, the Department's FAP eligibility determination is REVERSED, and it is so ordered. The Department shall:

1. Allow the Claimant the opportunity to resolve the discrepancy concerning his housing and utility expenses.
2. Redetermine a FAP budget for February 2010 to include Claimant's child support expenses.
3. Issue Claimant supplemental benefits he is entitled to, if any.
4. Notify Claimant in writing of the Department's revised determination.

/s/

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

Date Signed: March 29, 2010

Date Mailed: March 29, 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/vmc

cc:

