

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: 2010-26142

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 15, 2010

St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on April 15, 2010.

ISSUE

Whether the Department properly terminated Claimant's Food Assistance Program (FAP) case based upon his failure to provide requested verification(s)?

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.
2. On November 3, 2009, the Department mailed Claimant a Semi-Annual Contact Report, DHS-1046, with a due date of December 1, 2009. (Exhibits 4-5)

3. On December 10, 2009, the Department mailed Claimant a Notice of Potential Food Assistance (FAP) Closure informing him that his FAP case would close effective December 31, 2009 if he did not provide the requested verifications. (Exhibit 8)

4. On January 13, 2010, the Department mailed Claimant a Verification Checklist with a due date of January 25, 2010 for the requested verifications. (Exhibit 3)

5. On January 29, 2010, the Department mailed Claimant a Notice of Case Action informing him that his FAP case would close effective March 1, 2010 because 1) Net income exceeds limit and 2) You failed to verify or allow the Department to verify necessary information. (Exhibits 1-2)

6. On February 9, 2010, the Department received Claimant's hearing request protesting the termination of his FAP benefits.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

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 that were performed for remuneration or profit.

Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. 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

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 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

Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the verifications requested by the Department. 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. BAM 130, p.4

Clients are allowed a reasonable opportunity to resolve any discrepancy between statements and information obtained through another source. BAM 130, p. 6 Disagreements and misunderstandings should be resolved at the lowest possible level to avoid unnecessary hearings. BAM 600, p. 11

In the instant case, there is no question that the Department was extremely patient with Claimant during the Redetermination process. At the end of the day, however, the Department closed Claimant's FAP case because it did not have 30 days worth of income for his wife. The Department had 2 bi-weekly checks for Claimant's wife (12/4 and 12/18) covering 4 weeks of work, but wanted her 1/1 check because it was within the 30 day window of 12/4 to 1/4. Claimant did not understand that and would not have had a check to provide to the Department anyway given that his wife only gets paid when she works and her employer, a school, was closed for break during this time period. Claimant still may not be entitled to FAP benefits if his net income exceeds the limits, but this issue was not addressed at hearing by the Department.

With the above said, I do not find that the Department established that it acted in accordance with policy in terminating Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in terminating Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- 1) Process Claimant's Redetermination based on the income information it has obtained from Claimant and award Claimant FAP benefits, if eligible, retroactive to the closure date.
- 2) Issue Claimant supplemental benefits he is entitled to, if any.
- 3) Notify Claimant in writing of the Department's revised determination.
- 4) Claimant retains the right to request a hearing if he would like to contest the Department's revised determination.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 19, 2010

Date Mailed: April 20, 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.

SB/lk

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