

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.: 2010-28690
Issue No.: 3023
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 21, 2010
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 21, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's request for restoration of lost Food Assistance Program (FAP) benefits?

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's electricity was shut-off in 10/2009 due to non-payment.
2. Claimant lost an unspecified amount of food due to the electricity shut-off.

3. Claimant contacted DHS in 3/2010 regarding restoration of lost food from the electricity shut-off.
4. DHS denied Claimant's request for restoration of lost food benefits.
5. Claimant submitted a hearing request on 3/19/10 regarding denial of restoration of FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

BAM 502 covers food benefit replacement; it reads, "Replacements and reauthorizations are processed only if the client reports the loss timely. Timely means within 10 days if the loss is due to misfortune or disaster." In the present case, Claimant made her request for replacement in her 3/19/10 hearing request, several months after the 10/2009 electricity shut-off.

Further, Claimant's request was properly denied as Claimant's shut-off was caused by her own non-payment. Claimant contends that the shut-off was caused by DHS for failing to notify her utility company of her State Emergency Relief approval. DHS may or may not be partially at fault, however, shut-off for non-payment ultimately falls on the client. BAM 502 allows for food replacement "through no fault of the client". Claimant was properly denied food replacement for failing to make a timely request and for being at fault for the loss of food.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's request for restoration of lost FAP benefits.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/27/2010

Date Mailed: 4/27/2010

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.

CG/jlg

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