

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.: 2010-29272
Issue No.: 3003
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (76)

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 26, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's Food Assistance Program (FAP) benefits beginning 12/29/09.

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 applied for FAP on 12/29/09.
2. Claimant claimed a rent and utility obligation on her Assistance Application (DHS-1171).
3. DHS failed to request verifications for Claimant's rent and utilities.

4. On 1/27/10, DHS processed Claimant's application for FAP benefits without crediting Claimant for paying rent or utilities
5. Claimant reported an employment income reduction in 3/2009.
6. DHS requested verification of Claimant's income change on 3/17/10 with a due date of 3/29/10.
7. Claimant failed to return verification of her income reduction.
8. DHS did not reduce Claimant's income in budgeting FAP benefits because Claimant failed to submit verification.
9. Claimant submitted a hearing request on 3/22/10 regarding failure of DHS to include credits for rent and utilities and for failing to update Claimant's reported income reduction.

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).

BEM 554 directs DHS as follows for verifying rent, "Verify shelter expenses at application and when a change is reported." DHS is similarly directed for utilities. In the present case, DHS agreed that they did not attempt to verify Claimant's rent or utility obligation.

Claimant should be given the opportunity to verify her obligations and receive credit in her FAP budget if she successfully verifies them.

Claimant also reported an employment income reduction to DHS in 3/2010. DHS did attempt to verify the reduction. DHS mailed Claimant an Employment Verification (DHS-38) on 3/17/10 but Claimant failed to respond. DHS is not required to process Claimant's reported change without verification. BEM 505 states, "Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date." Claimant did not return the necessary verification by the due date and DHS correctly did not adjust Claimant's FAP benefits.

DECISION AND ORDER

The actions taken by DHS are REVERSED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to request rent and utility obligations associated with Claimant's 12/29/09 FAP benefits application. DHS is ordered to request such verifications and to adjust Claimant's FAP benefits retroactively to 12/29/09.

The actions taken by DHS are AFFIRMED in part. DHS properly calculated Claimant's income and did not fail to reduce Claimant reported employment income as Claimant failed to verify a reduction in employment income.



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

Date Signed: 4/30/2010

Date Mailed: 4/30/2010

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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