

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: 2010-32915
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2010
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on April 23, 2010. After due notice, a telephone hearing was held on Wednesday, May 26, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) The Claimant received FAP benefits.
- (2) On January 12, 2010, the Department sent the Claimant a redetermination form with a due date of February 5, 2010.

(3) On January 25, 2010, the Department received the Claimant's income verification documents for the pay periods November 29, 2009 through December 12, 2009, and December 27, 2009 through January 9, 2010.

(4) On February 25, 2010, the Department sent the Claimant a verification checklist with a due date of March 8, 2010.

(5) On March 10, 2010, the Department received the Claimant's income verification documents for the pay periods November 29, 2009 through December 12, 2009, and December 13, 2009 through December 26, 2009, and December 27, 2009 through January 9, 2010.

(6) On April 6, 2010, the Department sent the Claimant notice that it had terminated her FAP benefits as of March 1, 2010 for failure to cooperate.

(7) The Department received the Claimant's request for a hearing on April 23, 2010, protesting the termination of her FAP benefits.

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.

Clients are allowed ten calendar days to provide the verifications requested by the Department. BAM 130, p. 4. The Department should send a negative action notice 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. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130, p. 4.

On January 25, 2010, the Department sent the Claimant a redetermination form with a due date of February 5, 2010. This form included instructions to return verification of income for the previous 30 days. The Claimant returned the redetermination form, but did not include verification for income for the period December 12, 2009, through December 27, 2009.

On February 25, 2010, the Department did not have sufficient information to process the review of the Claimant's FAP benefits and sent her a verification checklist with a due date of March 8, 2010. The Claimant provided the Department with verification of income on March 10, 2010, and the Department terminated her FAP benefits on April 6, 2010.

Although the Claimant did not provide the Department with necessary verification documents before the due date of March 8, 2010, the Department did have verification of her income when it terminated her FAP benefits. The Department did not explain why it did not give the Claimant an extension to the deadline for income verification.

The paystubs turned over to the Department on January 25, 2010 do not verify her income for the previous 30 days, but the Claimant had not refused to verify her income. When the Claimant submitted paystubs on March 10, 2010, she had missed the due day of March 8, 2010, but she did make a reasonable effort to provide the Department with the documents it had requested. The Claimant testified that she had assumed that the verification documents she gave the Department in January of 2010 were sufficient, and submitted additional verification of her income when she realized her mistake.

The Department had the documents necessary to verify the Claimant's income in its possession when it terminated her FAP benefits on April 6, 2010 and could have proceeded with the review of the Claimant's benefits. The Department has not established that the Claimant failed to reasonably cooperate with the Department's review of her FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly terminated the Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Determine the Claimant's eligibilty for benefits as of March 1, 2010.
2. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.
3. Notify the Claimant of the Department's FAP eligibilty determination.

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

Date Signed: June 11, 2010

Date Mailed: June 15, 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/vc

cc:

