

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: 2010-33389
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Washtenaw 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 30, 2010. After due notice, a telephone hearing was held on Wednesday, June 2, 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 applied for benefits on March 2, 2010. Department Exhibit 1.
- (2) The Department did not enter the Claimant's complete address from her application for FAP benefits into its records. Department Exhibit 16.

(3) On March 26, 2010, the Department sent the Claimant a Verification Checklist, but this form was returned to the Department marked “unable to locate.” Department Exhibit 6.

(4) The Department sent the Claimant a Notice of Missed Interview form on April 1, 2010. Department Exhibit 5.

(5) The Department sent the Claimant a Notice of Missed Interview form on April 5, 2010. Department Exhibit 4.

(6) On April 6, 2010, the Department notified the Claimant that it had denied her application for benefits for failure to verify information and excess income. Department Exhibit 2.

(7) The Department received the Claimant’s request for a hearing on April 30, 2010, protesting the denial of her FAP application.

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).

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.

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 10 calendar days (or other time limited 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 had not made a reasonable effort to provide it. BAM 130, p. 4.

The Claimant applied for FAP benefits on March 2, 2010. On March 26, 2010, the Department sent the Claimant a Verification Checklist, but this form was returned to the Department as undeliverable. The Department scheduled interviews with the Claimant for April 1, 2010, and April 5, 2010, but the Claimant missed these interviews. On April 6, 2010, the Department completed a FAP budget using the best information available, which determined that the Claimant was not eligible for FAP benefits due to excess income.

The FAP budget completed on April 6, 2010, indicates that the Claimant receives a total monthly income of [REDACTED]. This amount is made up of earned income in the gross monthly amount of [REDACTED], and Unemployment Compensation in the gross monthly amount of [REDACTED]. Total income is reduced by 20% of the earned income, the standard deduction of [REDACTED], and an excess shelter deduction of [REDACTED] to arrive at a net countable income of [REDACTED]. The net income limit for FAP eligibility is [REDACTED], and therefore the Claimant's application for FAP benefits was denied.

The Claimant argued that she did not receive unemployment compensation benefits and earned income at the same time. The Department testified that it used the best information available at the time it determined the Claimant's FAP eligibility.

The Claimant testified that she did not know what verification documents the Department needed to approve her FAP application because she did not receive the Verification Checklist. The Claimant testified that she missed the interviews with the Department because she did not receive the interview notices. The Claimant would have had the opportunity to clarify the information from her FAP application at these interviews.

At the beginning of the hearing, the Claimant placed her mailing address on the record. The mailing address that the Claimant recited was the same as the address printed on each of the

exhibits supplied by the Department, except that the Claimant testified that she resides at

██████ The Department's records do not include the lot number, which the Claimant had written on her application for FAP benefits.

Based on the testimony and evidence available at the hearing, I find that the Department has not established that the Claimant failed to reasonably cooperate in the FAP eligibility determination process. The Claimant established that she did not have the opportunity to verify her income and expenses, because she did not receive the verification forms from the Department. The Department failed to enter the Claimant's complete and current address from the Claimant's application for benefits into its records.

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 the Claimant failed to reasonably cooperate in the FAP eligibility determination process.

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

- (1) Initiate a determination of the Claimant's FAP eligibility as of March 9, 2010.
- (2) Issue the Claimant any retroactive benefits she may be eligible to receive, if any.
- (3) Notify the Claimant in writing of the Department's eligibility determination.

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

Date Signed: June 25, 2010

Date Mailed: June 28, 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:

