

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: 2010-35569
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 10, 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 March 3, 2010. After due notice, a telephone hearing was held on Thursday, June 10, 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 receives FAP benefits as a group of two.
- (2) The Claimant did not receive child support payments for the months of January and February of 2010.

(3) The Claimant notified the Department of a change in her unearned income on January 13, 2010.

(4) The Department completed a FAP budget, which determined that the Claimant was entitled to a monthly FAP allotment of [REDACTED] as of March 1, 2010.

(5) The Department received the Claimant's request for a hearing on March 3, 2010, protesting the amount of her FAP allotment for January and February of 2010.

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.

The Department reviewed the Claimant's eligibility for FAP benefits on February 19, 2010, and determined that she was entitled to an increased FAP allotment because she did not receive child support payments in February of 2010. The Department testified that the Claimant notified her of the change in unearned income on February 19, 2010, and that an increase in FAP benefits would take place in March of 2010.

The Claimant argued that on December 14, 2009, she notified the Department by telephone that she did not expect to receive any child support payments during the months of January and February of 2010. The Claimant testified that she was instructed to report the change in child support after the payments had ceased. The Claimant testified that she notified the Department in a letter on January 13, 2010, that she would not be receiving child support payments for January and February of 2010.

The Department testified that it was not aware of the change in child support payments until February 19, 2010, and did not receive the letter dated January 13, 2010, until February 24, 2010. The Department submitted a letter as evidence, dated January 13, 2010, with a date stamp from the Department's reception desk of February 24, 2010. The Department offered a copy of a

log for January 13, 2010, from its office, which does not contain an entry showing that the Claimant dropped off documents on January 13, 2010.

The Claimant argued that the February 24, 2010, date stamp does not prove that the Department received it for the first time on February 24, 2010. She testified that brought a photocopy of the January 13th letter to the Department's office on February 24, 2010, in response to the Department's request for verification of when she had notified the Department of the change in child support. The Claimant testified that she did not drop off the January 13th letter at the Department's office, but sent it through the mail.

Child support payments received meet the definition of unearned income. A reduction of income affects a person's eligibility for FAP benefits. In this case, there is no dispute that the Claimant experienced a reduction in her unearned income for the months of January and February of 2010. The Claimant presented evidence, which establishes that she notified the Department of her income reduction in a timely manner. Therefore the Department has not established that it acted according to policy when it determined the Claimant's FAP eligibility.

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 determined the Claimant's eligibility for FAP benefits.

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 eligibility for FAP benefits as of January 1, 2010.

- (2) Issue the Claimant any retroactive benefits she may be entitled 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 24, 2010

Date Mailed: June 24, 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

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