

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: 2010-38178
Issue No: 3008; 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 7, 2010
Genesee 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 June 1, 2010. After due notice, a telephone hearing was held on Wednesday, July 7, 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.
- (2) On April 4, 2010, the Department sent the Claimant a redetermination notice with a due date of May 3, 2010. Department Exhibit B.

(3) On April 29, 2010, the Department received the Claimant's redetermination notice dated April 14, 2010. The Claimant notified the Department that two of her sons, whose names had been pre-printed on the form by the Department, were not living in her household. Department Exhibit B.

(4) One of the sons that were no longer living in the Claimant's household receives SSI benefits. Exhibit D.

(5) The Department completed a FAP budget for April of 2010, which determined that the Claimant was eligible for a monthly FAP allotment of [REDACTED]. Department Exhibit D.

(6) On May 12, 2010, the Department sent the Claimant a redetermination notice with a due date of June 1, 2010. Department Exhibit C.

(7) On May 28, 2010, the Department received verification of the Claimant's monthly housing expenses, which would be reduced from [REDACTED] to [REDACTED] on June 1, 2010. Department Exhibit C.

(8) The Department completed a FAP budget for June of 2010, which determined that the Claimant was eligible for a monthly FAP allotment of [REDACTED]. Department Exhibit D.

(9) The Department issued supplementary FAP benefits to the Claimant for the months November of 2009 through May of 2010. Department Exhibit A and D.

(10) The Department received the Claimant's request for a hearing on June 1, 2010, protesting the Department's consideration of SSI income in her FAP eligibility determination.

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount, and changes must be reported within 10 days of receiving the first payment reflecting

the change. BAM 105. The Department must act on a change in the Claimant's circumstances that results in an increase in the household's benefits no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was turned in by the due date. BAM 220.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. BEM 212.

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 before than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

In this case, the Department sent the Claimant a redetermination form on April 14, 2010, with a due date of May 3, 2010. The Claimant returned this form on April 29, 2010. On this redetermination form, the Claimant notified the Department that two of her sons were no longer living in the home, one having moved out on June 5, 2007, and one on January 24, 2010. The son that the Claimant had reported moving out of the household on June 5, 2007, receives Supplemental Security Income, which is countable-unearned income for the purposes of determined eligibility for FAP benefits.

The Claimant notified the Department on April 29, 2010, that had been using an incorrect FAP group composition in its eligibility determination. The Department had been including SSI benefits for a group member that was no longer living in the household. Incorrectly counting income towards the groups FAP budget causes an incorrect determination of the FAP allotment. The Department must act on a change in the Claimant's circumstances that results in an increase in the household's benefits no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was turned in by the due date. BAM 220. The Department was unable to process the increase in FAP allotment for the month of May 2010, because it was not aware of the change in the Claimant's FAP group until April 29, 2010.

The Claimant argued that the Department either knew, or should have known that her son was not living within the household, and that the Claimant's group was not receiving his SSI benefits. The Claimant testified that she remembered verbally informing a previous caseworker that he son had moved, but did not offer any other evidence that she had reported her son leaving the household before April 29, 2010.

The Department testified that it had no record of this son leaving the Claimant's household until she made a change to the redetermination that the Department received on April 29, 2010.

On May 19, 2010, the Department sent the Claimant another redetermination form. The Claimant returned this form on May 28, 2010, and reported that her monthly shelter expense would change to [REDACTED] as of June 1, 2010. The Client also reported to the Department on May 28, 2010, that a granddaughter was now living in her household. A change in the Claimant's housing expenses and group composition affects her eligibility for FAP benefits.

The Department added the granddaughter to the Claimant's FAP group, and adjusted her housing expenses in its most recent FAP eligibility determination.

The Claimant argued that the Department did not properly gather information and use it in a timely manner, but did not otherwise disagree with the Department's budget calculations. The Claimant testified that she had verbally notified the Department that a group member receiving SSI benefits was no longer living in her household. The Claimant argued that the Department had a duty to request additional information to settle any uncertainty of the group's unearned income.

The Department testified that it processed the information it received from the Claimant in a timely manner as required by policy. The Department must act within 10 days on a change in the Claimant's circumstances that results in an increase in the household's benefits. There is no evidence that the Department failed to meet this standard. The Department has a duty to act on the information it receives in a timely manner, and to verify it where necessary, but it is the duty of the Claimant to report information that may affect eligibility to receive benefits in a timely manner.

Even though the Department established that it acted on the information the Claimant provided in a timely manner, the Department's manager authorized a retroactive supplemental FAP allotment for the Claimant for the November of 2009, through May of 2010. The Department's has included all of the changes in the Claimant's circumstances reported on April 29, 2010, and May 28, 2010, into its most recent FAP eligibility determination.

Based on the evidence and testimony available at the hearing, the Department established that it acted in accordance with policy when determining the Claimant's eligibility for FAP benefits, and that it acted on all changes to the Claimant's circumstances in a timely manner.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's FAP eligibility.

The Department's FAP eligibility determination is AFFIRMED. It is SO ORDERED.

/s/

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

Date Signed: July 16, 2010

Date Mailed: July 19, 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:

