

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201049671
Issue No: 3008, 1005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 16, 2010
Clare 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 July 29, 2010. After due notice, a telephone hearing was held on Thursday, September 16, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) 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 was an ongoing FAP and FIP recipient.
2. The Department scheduled a redetermination interview with the Claimant at 3:00 p.m., on July 1, 2010. Department Exhibit 4.
3. On July 7, 2010, the Claimant requested that the Department reschedule her redetermination interview. Department Exhibit 5.
4. On July 7, 2010, the Department conducted a redetermination interview by telephone with the Claimant. Department Exhibit 5.

5. The Department sent the Claimant a Verification Checklist with a due date of July 19, 2010. Department Exhibit 6.
6. On July 20, 2010, the Department terminated the Claimant's FAP and FIP benefits for failure to verify information necessary to determine eligibility.
7. The Department received the Claimant's request for a hearing on July 29, 2010, protesting the termination of her FAP and FIP 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. 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 within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

The Claimant was receiving FAP and FIP benefits when the Department scheduled a routine redetermination interview for 3:00 p.m., on July 1, 2010. On July 7, 2010, the Claimant requested that the Department reschedule her redetermination interview, and

her caseworker conducted the interview by telephone later that day. During the interview, the Claimant reported that she had lost her employment. The Department sent the Claimant a Verification Checklist and requested that the Claimant verify her loss of employment. When the Claimant did not return the Verification Checklist, the Department terminated the Claimant's FAP and FIP benefits on July 20, 2010, for failure to provide information necessary to determine eligibility.

The Claimant argued that she did not receive the Verification Checklist until July 21, 2010, and therefore could not have submitted verification of her loss of employment by July 19, 2010.

The Department testified that the Verification Checklist was mailed to the Claimant's correct mailing address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the Claimant failed to rebut the presumption of receipt.

Based on the evidence and testimony available during the hearing, the Department has established that it properly terminated the Claimant's FAP and FIP benefits for failure to provide information necessary to determine eligibility.

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 and FIP eligibility.

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

_____/s/

Kevin

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

Date Signed: October 7, 2010

Date Mailed: October 8, 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/alc

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