

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201053639

Issue No: 3008, 1005

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 19, 2010

Monroe 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 August 17, 2010. After due notice, a telephone hearing was held on Tuesday, October 19, 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 applied for FAP and FIP benefits on June 22, 2010.
2. On June 22, 2010, the Claimant submitted three pay stubs for her husband and [REDACTED], and copies of two cancelled checks payable to the Claimant.
3. The Department sent the Claimant a Verification Checklist with a due date of August 2, 2010. The Department requested verification of [REDACTED]'s income for the previous 30 days.
4. The Department sent the Claimant a Verification of Employment form with a due date of August 2, 2010. The Department requested verification of the Claimant's income.

5. On August 6, 2010, the Department terminated the Claimant's FAP and FIP benefits for failure to provide information necessary to determine eligibility.
6. The Department received the Claimant's request for a hearing on August 17, 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).

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. 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. The Department should extend the time limit no more than once if the client cannot provide the verification despite a reasonable effort. BAM 130.

In this case, the Claimant applied for FAP and FIP benefits on June 22, 2010, and submitted three pay stubs for her husband [REDACTED] and copies of two cancelled checks payable to the Claimant along with her application for assistance. The Department sent the Claimant a Verification Checklist requesting verification of [REDACTED] income, and a Verification of Employment form for the Claimant. The due date for both of these forms was August 2, 2010. On August 6, 2010, the Department terminated the Claimant's FAP and FIP benefits for failure to provide information necessary to determine eligibility.

The Department's representative testified that the Claimant submitted two copies of checks payable to the Claimant as verification of her income. The Department's representative testified that these checks do not indicate that they come from the Claimant's employer, or whether they represent the Claimant's gross or net income. The Department did not consider the information submitted by the Claimant to be sufficient verification of her income.

The Claimant argued that she had submitted the necessary verification documents to show her income for the previous 30 days. The Claimant testified that she is paid on a commission basis out of her employer's personal checking account, and receives her earnings twice monthly. The Department received a Verification Checklist completed by the Claimant's employer on August 5, 2010, which indicates that she is paid twice monthly.

The Department's representative testified that the Claimant submitted three pay check statements showing income earned by her husband. The statements are dated May 7, 2010, May 14, 2010, and May 21, 2010. The Department's representative testified that this documentation submitted does not completely verify [REDACTED]'s income for the month of May, 2010.

The Claimant argued that she had submitted the necessary verification documents to show her husband's income for the previous 30 days. The Claimant testified that her husband earns his income on a commission basis, which causes him to receive no pay during certain weeks. The Claimant testified that this was the case for May of 2010, when he only received three paychecks.

The Department shall give a client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department will use the best available information. BAM 130. Where no evidence is available, the Department will use its best judgment. The Department should send a negative action notice when the time period provided has lapsed and the client has not made a reasonable effort to provide it. BAM 130.

In this case, the Department had failed to establish that the Claimant did not make a reasonable effort to provide verification of her household income. It is not clear that the verification documents provided by the Claimant do not completely verify her household income for a thirty-day period. If the verification is not complete, there is no evidence that the Department attempted to resolve the discrepancy before issuing the negative action notice.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not establish that the Claimant failed to make a reasonable effort to verify her household income.

Accordingly, the Department's FIP and FAP eligibility determinations are REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for FIP and FAP as of the Claimant's application date of June 22, 2010.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

_____/s/

Kevin

Scully
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 14, 2011

Date Mailed: January 19, 2011

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

cc:

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