

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.: 2010-5373
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 1, 2010
Wayne County DHS (73)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a hearing was conducted from Detroit, Michigan on Thursday, February 25, 2010. The Claimant appeared and testified. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED], [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's food replacement request?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP recipient.
2. On August 4th and 5th, 2009, the Claimant experienced a storm-related electric power outage. (Exhibit 2)

3. On August 14, 2009, the Claimant completed a Food Replacement Affidavit noting the date of loss as August 10, 2009.
4. The Department was unable to verify a power loss for August 10th therefore instructed the Claimant to submit proof of the power loss.
5. On September 9, 2009, [REDACTED] sent a letter to the Claimant stating the dates of the power outage were August 4th and 5th. (Exhibits 2, 6)
6. On September 15, 2009, the Claimant submitted the proof of the power outage. (Exhibit 2)
7. On October 20, 2009, the Department denied the request for food replacement based on the August 10, 2009 date. (Exhibit 3)
8. On October 21, 2009, the Department received the Claimant's written request for hearing. (Exhibit 4)

CONCLUSIONS OF LAW

The Food Assistance Program, formerly known as the Food Stamp ("FS") 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"), formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM")/Bridges Administrative Manual ("BAM"), the Program Eligibility Manual ("PEM")/Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM")/Bridges Policy Glossary ("BPG").

Food Assistance recipients may be issued a replacement of food that has been reported as destroyed in a domestic misfortune or disaster. PAM/BAM 502 There is no limit as to the

number of replacements for food purchased with food benefits and destroyed in a domestic misfortune or disaster. *Id.* Replacements and reauthorizations are processed only if the client reports the loss within 10 days of the misfortune/disaster. *Id.* Domestic misfortunes or disasters include events which occur through no fault of the client such as fires, floods, or electrical outages. *Id.* The department will replace the amount of the client states was lost up to the value of the current month's allotment. *Id.* The food does not have to come from the current month however the client must complete the Food Replacement Affidavit form describing the loss. *Id.* Replacement cannot exceed the current month's benefit. *Id.*

The client must obtain the required verification, however, the Department must assist if needed and/or requested. PAM/BAM 105; PAM/BAM 130 If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM/BAM 130 If no evidence is available, the Department should use its best judgment. *Id.* Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. *Id.* If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. *Id.* Before determining eligibility, a client is given a reasonable opportunity to resolve any discrepancy between statements made and information from another source. BAM 130

In the record presented, the Claimant experienced an electrical power outage on August 4th and 5th which reportedly destroyed food purchased with her food benefits. On August 14, 2009, within 10 days of the loss, the Claimant submitted a Food Replacement Affidavit however she mistakenly put August 10th as the date of loss. As a result, the Department was unable to confirm the power outage with [REDACTED] for that date. The Department requested the Claimant submit proof of her power loss. The Claimant received a letter from [REDACTED], establishing her loss

of electricity for August 4th and 5th, on or about September 10, 2009. The Claimant submitted the proof on September 15, 2009. There was no further communication between the Department and the Claimant regarding the date discrepancy and, on October 20, 2009, the food replacement was denied due to the conflicting dates of the electrical power outage. The Claimant was never given an opportunity to resolve the discrepancy between her statement and information provided. The evidence shows that the Claimant lost power on August 4th and 5th which reportedly resulted in the destruction of food purchased with her food benefits. Under these facts, the Department's actions are not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's actions are not upheld.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall re-process the Claimant's food replacement application in accordance with department policy.
3. The Department shall notify the Claimant and her authorized representative in writing of the determination in accordance with department policy.
4. The Department shall supplement for any lost benefits the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/02/2010

Date Mailed: 3/02/2010

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.

CMM/jlg

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