

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: 201054455
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 14, 2010
Kalkaska 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 September 8, 2010. After due notice, a telephone hearing was held on Thursday, October 14, 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 was an ongoing FAP recipient.
2. On July 14, 2010, the Department sent the Claimant a Redetermination form with a due date of August 9, 2010. Department Exhibit 68.
3. On August 18, 2010, the Department sent the Claimant a Verification Checklist with a due date of August 30, 2010. Department Exhibit 46.
4. The Claimant's daughter, [REDACTED], received monthly earned income in the gross monthly amount of \$ [REDACTED] during February of 2010. Department Exhibit 48.

5. On August 16, 2010, the Department received one pay stub showing earned income received on August 5, 2010. Department Exhibit 52. [REDACTED]
6. On September 1, 2010, the Department notified the Claimant that it would terminate his FAP benefits for failure to verify information necessary to determine eligibility. Department Exhibit 8.
7. The Department received the Claimant's request for a hearing on September 8, 2010, protesting the termination of his FAP 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, 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 an ongoing FAP recipient when the Department sent him a Redetermination form on July 14, 2010, with a due date of August 9, 2010. The Claimant returned the Redetermination form, but failed to include verification of his daughter's income.

The Department excludes the earnings of an group member who is all of the following:

- Under age 18.
- Attending elementary, middle or high school including attending classes to obtain a GED.
- Living with someone who provides care or supervision. BEM 501.

If a group member no longer meets one of these requirements, the Department will include that group member's income during the following month. BEM 501.

The Claimant's daughter was receiving income that the Department previously disregarded, but verification became necessary after she turned 18-years-old. On August 18, 2010, the Department sent the Claimant a Verification Checklist with a due date of August 30, 2010. On August 16, 2010, the Department received one pay stub showing income of the Claimant's daughter (M.J.) received on August 5, 2010.

On September 1, 2010, the Department notified the Claimant that it would terminate his FAP benefits for failure to provide verification of [REDACTED] income for the previous 30 days.

The Claimant argued that he was unable to provide the Department with verification of his daughter's income because the daughter's employer refused to complete the verification form provided by the Department. The Claimant testified that his daughter could not locate her paycheck stubs, and that he requested assistance from the Department with obtaining verification of his daughter's income.

The Department's representative testified that it was unable to obtain income verification for the Claimant's daughter electronically. The Department extended the due date to submit verification documents from August 27, 2010, to August 30, 2010, which was the end of the Claimant's certification period.

The Claimant requested assistance with obtaining income verification documents and the Department had a duty to provide this assistance. The Department may not terminate assistance because an employer or other source refuses to verify income. BEM 501.

The Department may terminate benefits where the Claimant:

- Indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

If neither the Claimant nor the Department can obtain verification despite a reasonable effort, the Department will use the best available information and if no evidence is available, the Department will use its best judgment. BAM 130.

The Department has not established that the Claimant refused to provide income verification for all the members of his FAP group. When the Claimant found himself unable to obtain the necessary income verification, he requested assistance from the Department. The Department was also unable to obtain income verification for the Claimant's daughter. The Department did not provide the Claimant with instruction to obtain verification of his daughter's income. Therefore, the Department has not established that the Claimant did not make a reasonable effort to provide income verification documents necessary to determine eligibility.

Furthermore, the Department was aware that during February of 2010, the Claimant's daughter received earned income in the gross amount of \$[REDACTED]. This income was excluded from the Claimant's group income because the daughter was under 18-years-old, attending school, and living with her parents. The Claimant provided the Department with a copy of one paycheck stub on August 16, 2010. This paycheck is dated August 5, 2010. The Department has not established that it was unable to use the best available information to determine a prospective monthly income for the Claimant's daughter.

Based on the evidence and testimony available during the hearing, the Department has not established that it properly terminated the Claimant's FAP benefits for failure to provide information necessary to determine eligibility to receive benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not established that the Claimant failed to make a reasonable effort to submit information necessary to determine eligibility to receive 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 as of September 1, 2010, and provide the Claimant with assistance in getting needed verification as requested.
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 Ismael Ahmed, Director
Department of Human Services

Date Signed: October 22, 2010

Date Mailed: October 22, 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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