

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: 2011148
Issue No: 3008, 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2010
Kent 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 December 11, 2009. After due notice, a telephone hearing was held on October 27, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) 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 CDC benefits on July 19, 2009.
2. The Claimant moved to [REDACTED] on October 27, 2010.
3. On November 13, 2009, the Department sent the Claimant a Verification Checklist with a due date of November 23, 2009.
4. On November 13, 2009, the Department sent the Claimant a Child Care Provider Verification form with a due date of November 23, 2009.
5. On November 25, 2009, the Department notified the Claimant that it would terminate her FAP and CDC benefits.

6. The Department received the Claimant's request for a hearing on December 11, 2009, protesting the termination of her FAP and CDC 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 Child Development and Care program is established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. 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 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 Department has the burden of proving that its actions were a proper application of its policies. The Department had a duty to present the following:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BAM 600.

The Claimant applied for FAP and CDC benefits on July 19, 2009. On November 13, 2009, the Department sent the Claimant a Verification Checklist and a Child Care Provider Verification form with due dates of November 23, 2009. On November 25, 2009, the Department notified the Claimant that it would terminate her FAP and CDC benefits for failure to provide information necessary to determine eligibility.

The Claimant argued that the reason she did not return the Verification Checklist or Child Care Provider Verification forms is that she did not receive them. The Claimant argued the forms submitted by the Department in the hearings packet as evidence show that these forms were not sent to her current address.

Department records show that the Claimant moved to 850 Grand on October 27, 2010, but do not indicate when this information was reported by the Claimant. Information from the Department's Bridges computer system show that the Claimant moved to her 1041 Thomas address on April 1, 2009, and that this was reported on April 18, 2009. Unfortunately, the report date for the Claimant's move to the 850 Grand address was not available for the hearing.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600. The Department has burden of proving that its actions are correct. In this case, the Department's records show that it was aware that the Claimant had moved before November 13, 2009, but the Department failed to provide evidence of when the Claimant reported the move.

The Claimant claims to have good cause for failing to return the forms necessary to determine eligibility to receive benefits. The Department has not proven that the Claimant did not report her change of address in a timely manner, which would have interfered with her ability to receive Department correspondence. Therefore the Department has failed to establish that the Claimant did not make a reasonable effort to provide the Department with the 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 did not have good cause for failing to return the Department's verification forms.

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

1. Initiate a determination of the Claimant's eligibility for FAP and CDC as of her application date of July 19, 2009.

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:

