

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]
[REDACTED]

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 Food Assistance Program (FAP) recipient.
2. The Department sent the Claimant a Semi-Annual Contact Report on [REDACTED]
[REDACTED]
3. The Claimant returned the [REDACTED] to the Department. On this form, the Claimant indicated that her household's gross earned income changed by more than [REDACTED]
4. The Department sent the Claimant a Notice of Potential Food Assistance (FAP) Closure on [REDACTED]
5. The Department terminated the Claimant's Food Assistance Program (FAP) benefits on [REDACTED]
6. The Department received the Claimant's request for a hearing on [REDACTED]
[REDACTED] protesting the termination of her Food Assistance Program (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. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. 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. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. 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.

The Claimant was an ongoing Food Assistance Program (FAP) recipient. On [REDACTED] Claimant returned. On her Semi-Annual Contact Report, the Claimant indicated that her household's gross earned income changed by more than [REDACTED]

The Department's Semi-Annual Contact Report includes instructions to return the form along with proof of changes. Since the Claimant indicated that there were changes to her household's earned income, but did not attach any proof, the Department sent the Claimant notice that her FAP benefits would be closed if she did not provide the necessary proof.

When the Department did not receive proof of the Claimant's earned income by [REDACTED] it terminated the Claimant's FAP benefits for failure to provide information necessary to determine her eligibility to receive benefits.

During the hearing, the Claimant testified that her household did not have a change in earned income, and that it was a clerical error on the [REDACTED] that indicated that there was a change. The Claimant testified that she reported a change in unearned income in the earned income section of the form by mistake.

It appears that the Claimant was eligible to receive Food Assistance Program (FAP) benefits and that her need for the program is great.

However, the authority granted to this Administrative Law Judge over this case is limited to determining whether the Department of Human Services properly applied its policies to the Claimant's case. In this case, it appears that the termination of the Claimant's Food Assistance Program (FAP) benefits was a proper application of the Department's policy.

As a recipient of FAP benefits, the Claimant had a duty to report changes in her circumstances to the Department that would affect her eligibility to receive benefits. On [REDACTED] the Department requested that the Claimant update her benefits file and provide proof of any changes in her circumstances. The Department had no reason to suspect that the Claimant had mistakenly reported a change in earned income. From the Department's point of view, the Claimant had indicated there was a change in earned income, but failed to provide proof as instructed on the form.

Based on the evidence and testimony available during the hearing, the Department has established that it acted properly when it terminated the Claimant's Food Assistance Program (FAP) benefits for failure to provide information necessary to determine her eligibility to receive benefits. Whether the Department should have discovered the Claimant's clerical error on the Semi-Annual Contact Report, or had the discretion to overlook this misunderstanding is not relevant to this hearing. This Administrative Law Judge does not have the authority to overturn department policy or grant an equitable remedy in this case. Therefore, this Administrative Law Judge must affirm the Department's actions.

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 eligibility.

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

_____/s/_____
[REDACTED]

Date Signed: ___4/14/11_____

Date Mailed: ___4/14/11_____

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.

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