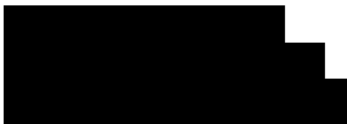


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201135873
Issue No: 3002, 3008
Case No: [REDACTED]
Hearing Date: June 28, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on June 28, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly reduce the claimant's Food Assistance Program (FAP) benefits for failure to return the required verifications?

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 submitted an application for FAP benefits on September 9, 2010. (Department Exhibit 1)
2. On April 26, 2011, the claimant was mailed a Verification Checklist (DHS-3503-C) requiring the claimant to submit proof of her shelter expenses. Proof of these expenses was due to the department by May 6, 2011. (Department Exhibit 1 page 1)
3. The department received no verification and in turn re-budgeted the claimant's FAP benefits. (Department Exhibit 4).
4. The department used the amount of [REDACTED] for the claimant's income. (Department Exhibit 4 page 1).

5. Based on the lack of shelter expenses, the department reduced the claimant's FAP benefit from [REDACTED] to [REDACTED] (Department Hearing Summary).
6. The claimant was sent a Notice of Case Action (DHS 1065) informing her of the reduction in benefit amount on May 10, 2011 (Department Exhibit 2)
7. The claimant submitted a hearing request on June 7, 2011.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) (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 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) and the Program Reference Manual (PRM).

Department policy states that the claimant must provide verification of expenses in order for them to be considered in determining the amount of the claimant's benefits. BAM 105. Department policy states as follows:

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130.

Timeliness Standards

FIP, SDA, CDC, FAP

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

Exception: For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- . the client 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.

Note: For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

In the case at hand, the claimant admits that she was sent a verification checklist (DHS 3503-C) regarding her monthly shelter expense from Macomb County DHS, and the evidence of record shows that this verification checklist was sent to the claimant on April 26, 2011 (Department Exhibit 1 page 1). The claimant testified that it was her understanding from speaking to her case worker at Macomb County DHS that she did not have to submit the verification checklist, however, [REDACTED] (the worker representing the Oakland County DHS office) testified at the hearing that the claimant was informed of her need to submit the verification checklist. Furthermore, evidence provided by the department shows that the claimant was in fact mailed another verification checklist from Oakland County on June 2, 2011 (Department Exhibit 5 page 1). This tends to show that despite what the claimant may have been told by the Macomb County DHS, she was informed by Oakland County that it was necessary to complete the verification checklist. The claimant did admit that she never submitted the shelter verification to the department.

Additionally, the claimant was further informed at the hearing of the need for her to submit the verification checklist and the department indicated that once said form was submitted, the department would re-budget the claimant's FAP benefits.

Accordingly, when the department budgeted the claimant's FAP benefits, it used the proper amount of excess shelter deduction due to the claimant's failure to provide verification of any additional amounts.

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child

Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, the claimant was receiving monthly unearned income in the amount of [REDACTED] at the time relevant to this matter. A standard deduction of [REDACTED] was subtracted from Claimant's countable income leaving an adjusted gross income of [REDACTED]. However, at the hearing the claimant indicated that amount used for her gross income was inaccurate and that her gross monthly income is actually less than what the department used in its calculations. There is not sufficient evidence of record to show how the department arrived at the figure of [REDACTED] for the claimant's monthly unearned income. The department provided information relating to the claimant's unearned income showing a payment of SSI for one of the group members as well as child support payments made to the claimant for the months of April through July 2011. However, this Administrative Law Judge is unable to reconcile the amount of unearned income used by the department for budgeting purposes with the figures provided by the department relating to SSI and child support payments. The department, therefore, should re-budget the claimant's FAP benefits back to June 1, 2011, ensuring the income is correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department used the proper amount of excess shelter deduction in determining the claimant's FAP benefit amount. However, the department must re-budget the claimant's FAP benefit amount using the claimant's correct income amount.

Accordingly, the department's actions are REVERSED. IT IS HEREBY ORDERED that the department shall re-budget the claimant's FAP benefits using verifiable income for the claimant back to June 1, 2011. The department shall also provide the claimant with written verification of the amount of income used for the budget with an explanation of how that figure was derived.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 5, 2011

Date Mailed: July 6, 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.

SM/ds

cc:

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