

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.: 2011-9510
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 6, 2011
Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 a hearing. After due notice, a telephone hearing was held on January 6, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant and as a translator for Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly determined Claimant's Food Assistance Program (FAP) benefits for benefit month 12/2010.

FINDINGS OF FACT

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

1. Claimant was an ongoing FAP benefit recipient.
2. Claimant's FAP benefit period was scheduled to end in 11/2010.
3. DHS determined that Claimant was eligible for \$179/month in FAP benefits for 11/2010.
4. DHS redetermined Claimant's FAP benefits effective 12/2010 and determined that Claimant was eligible for \$130/month in FAP benefits.
5. The only change that DHS made in 12/2010 from 11/2010 was removal of a credit for Claimant's rent obligation.

6. On 11/24/10, Claimant requested a hearing disputing the amount of her 12/2010 FAP benefit issuance.

CONCLUSIONS OF LAW

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.*

The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id.* at 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary though a Redetermination (DHS-1010) is an acceptable review form for all programs.

The present case involves redetermination of Claimant's FAP benefits effective 12/2010. Claimant disputed her redetermined FAP benefit issuance of \$130 effective 12/2010 because she received \$179/month in FAP benefits prior to her redetermination and Claimant stated that none of her circumstances changed since receiving the higher benefit amount. DHS submitted FAP benefit budgets from 11/2010 (Exhibit 2) and 12/2010 (Exhibit 3) which established that the only change made in Claimant's FAP benefits from 11/2010 to 12/2010 was a removal of a rent expense from Claimant's FAP benefit budget. Thus, the only issue to determine is whether DHS properly removed the rent expense.

DHS is to verify shelter expenses at application and when a change is reported. BEM 554 at 11. If the client fails to verify a reported change in shelter, DHS is to remove the old expense until the new expense is verified. *Id.*

The undersigned was initially skeptical about the DHS removal of the rental expense. Claimant credibly testified that she had not reported any change in rental expenses. DHS then defended the removal by indicating that it was "general practice" to verify rental expenses that had not been verified for some unspecified lengthy period of time. Such a practice would contradict DHS policy which only requires verification at application and when a change is reported.

However, further testimony revealed that Claimant's rent fluctuated, albeit only slightly. Claimant indicated that her rent expense was \$156 in 11/2010 and decreased to \$155 in 12/2010. Claimant later amended her testimony to say that the decrease was effective 1/2011. DHS also clarified their testimony indicating that Claimant's last verified rental verification indicated a rental amount of \$156 but Claimant's last reporting of rent was \$155/month in rent. Based on all of the testimony provided, it is found that DHS had a basis to remove the \$155 rental obligation because Claimant had not verified the obligation. Accordingly, DHS properly reduced Claimant's FAP benefit issuance to \$130/month effective 12/2010. As discussed during the hearing, Claimant may submit verification of her current rental obligation so that it may be considered in Claimant's future FAP benefit determinations.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit issuance for 12/2010 and properly excluded Claimant's unverified rental obligation. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Duane Berger, Director
Department of Human Services

Date Signed: 1/13/2011

Date Mailed: 1/13/2011

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.

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