

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201115978
Issue No: 3002
Case No: [REDACTED]

Hearing Date:
March 1, 2011
Ingham 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 10, 2010. After due notice, a telephone hearing was held on Tuesday, March 1, 2011.

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 is an ongoing FAP recipient.
2. On October 1, 2010, the Department sent the Claimant a Semi-Annual Contact Report with a due date of November 30, 2010.
3. On October 22, 2010, the Department received the Claimant's Semi-Annual Contact Report. The Claimant failed to include verification of her income, but did attach verification of her daughter's income.
4. On November 24, 2010, the Department sent the Claimant a Verification Checklist with a due date of December 6, 2010. The Department requested verification of the Claimant's income for the last 30 days.

5. On December 4, 2010, the Department notified the Claimant that she was eligible for a monthly FAP allotment of \$279 for December of 2010.
6. On December 4, 2010, the Department notified the Claimant that she was eligible for a monthly FAP allotment of \$470 for January of 2011.
7. On December 10, 2010, the Department received verification of the Claimant's income.
8. The Department received the Claimant's request for a hearing on December 10, 2010, protesting the amount of her 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.

All earned 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.

The Claimant was an ongoing FAP recipient when the Department sent her a Semi-Annual Contact Report with a due date of November 30, 2010. On October 22, 2010, the Claimant returned her Semi-Annual Contact Report. The Claimant failed to provide verification of her own income, but did provide verification of her daughter's income. On November 24, 2010, the Department sent the Claimant a Verification Checklist with a due date of December 6, 2010. The Department requested verification of the Claimant's income for the last 30 days. On December 4, 2010, the Department notified the Claimant that her FAP allotment for December of 2010 would be \$279, and her FAP allotment for January of 2011 would be \$470.

On December 10, 2010, the Department received verification of the Claimant's income from September 16, 2010, through December 2, 2010.

The Department offered as Department Exhibits copies of gross income tests for December of 2010, and January of 2011. The gross income test supplied by the Department for January of 2011, shows a gross monthly income of \$2,053. For the month of November of 2010, the Claimant received four weekly paychecks in the gross amounts of \$328.38, \$337.63, \$337.63, and \$337.63. When the average of these four amounts is multiplied by the 4.3 conversion factor as directed by BEM 505, this results in a monthly income of \$1,441. For the month of November of 2010, the Claimant's daughter received two bi-weekly paychecks in the gross amounts of \$296.25, and \$273.75. When the average of these two amounts is multiplied by the 2.15 conversion factor as directed by BEM 505, this results in a monthly income of \$612. The total of these two monthly incomes determines the FAP group's total gross monthly earned income of \$2,053.

The Claimant received earned income in the gross monthly amount of \$2,053. The Department determined her adjusted gross income of \$1,453, by reducing her gross income with a 20% earned income credit, a standard deduction of \$178, and the Claimant's \$10.75 dependent childcare deduction. The Claimant's excess shelter deduction of \$461 is determined by adding her monthly shelter expense of \$600 to the standard heat and utility deduction of \$588 under the Low Income Home Energy Assistance Program, and subtracting 50% of her adjusted gross income.

The Claimant's net income of \$992 is determined by subtracting her excess shelter from her adjusted gross income. A FAP recipient with a group size of five and a net income of \$992 is entitled to a FAP allotment of \$495. RFT 260.

The gross income test supplied by the Department for December of 2010, shows a gross monthly income of \$2,123. This Administrative Law Judge is unable to determine from the documents available during the hearing how a monthly gross earned income of \$2,123 was determined.

However, when a gross income of \$2,123 is reduced by the 20% earned income credit, a standard deduction of \$178, and the Claimant's \$10.75 dependent childcare deduction, this results in an adjusted gross income of \$1,509. Subtracting an excess shelter deduction of \$461 from the Claimant's adjusted gross income leaves her with a net income of \$1,076. A FAP recipient with a group size of five and a net income of \$1,076 is entitled to a FAP allotment of \$470.

The Department's representative testified that the reason that the Claimant was entitled to a reduced FAP allotment for December of 2010 was her failure to provide verification of her income before December 6, 2010. This Administrative Law Judge finds that the Department has failed to establish that it properly determined that the Claimant was entitled to a FAP allotment of \$279 for the December of 2010. The consequences of failing to provide the Department with information necessary to determine eligibility for benefits is generally termination of benefits. The Department failed to establish how the Claimant's failure to verify resulted in a reduced FAP allotment.

The Claimant stipulated that the income reported on the December 4, 2010, Notice of Case Action is correct. When a monthly gross income of \$2,123 is entered into the Claimant's FAP budget, this results in a FAP allotment of \$470. Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly determined the Claimant's eligibility for FAP benefits as of January 1, 2011.

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 Department failed to establish how it determined the Claimant's FAP allotment for December of 2010. The Department failed to submit available printouts from the Bridges computer system that would explain how it determined that the Claimant was entitled to a FAP allotment of \$279 for December of 2010. The Department failed to explain how a failure to provide information necessary to determine eligibility results in a reduced FAP allotment in December. The Administrative Law Judge finds that the

Department failed to establish that the case action reported on December 4, 2010, was a correct application of Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish that it properly determined the Claimant's eligibility for Food Assistance Program (FAP) benefits as of December 1, 2010.

Accordingly, the Department's Food Assistance Program (FAP) eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) as of December 1, 2010.
2. Provide the Claimant with written notification of what income figures were used in its revised eligibility determination, and when these income figures were received by the Department.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 9, 2011

Date Mailed: March 9, 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/tg

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cc:

