

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.: 2011-4154
Issue No.: 3008
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 1, 2010
DHS County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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 December 1, 2010. Claimant appeared and testified. The Department of Human Services (Department or DHS) was represented by [REDACTED].

ISSUE

Was the Department correct in removing shelter expenses in calculating Claimant's Food Assistance Program (FAP) budget?

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 recipient.
2. Client reported a change of shelter expense on September 2, 2010.
3. On September 2, 2010, DHS issued a Verification Checklist requiring Claimant to produce home rent verification by September 13, 2010.
4. Claimant mailed a copy of the lease sometime before September 13, 2010.

CONCLUSIONS OF LAW

FAP 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 administers the FAP program pursuant to CML 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.

Clients must cooperate with the local DHS office in obtaining verification for determining initial and ongoing eligibility. BAM 130, p. 1. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide the information should be extended at least once. BAM 130, p.5; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 5.

In the present case, Claimant credibly testified that she submitted verification of the rental amount prior to the deadline. Claimant recalls receiving the request (Verification Checklist, Exhibit 1) and the pre-paid envelope. Claimant recalls obtaining a copy of the lease and mailing it, paying postage of \$.69, as she had “messed up the front” of the pre-paid envelope. Claimant testified that she mailed the lease “real quick” from the time of receiving the request. When Claimant was notified that the Department did not receive the lease, she physically delivered the lease to the Department, at which point the deadline had passed. The Department concedes that Claimant did submit the document entitled, “Monthly Rental Agreement. (Exhibit 2.) This Administrative Law Judge cannot find that Claimant failed to cooperate. Rather, I find that Claimant returned the verification in a timely manner. Therefore, the Department was incorrect in removing shelter expenses in calculating Claimant’s FAP budget. BAM 130. Bridges instructs the following with respect to reported changes:

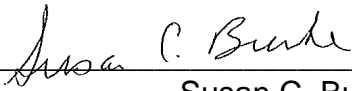
“You must act on a change reported by means . . . within 10 workdays after you are aware of the change.” BAM 220.

“Changes which result in an increase in the house-hold’s benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date.” BAM 220.

“The change must still affect the correct issuance month, for example, the month after the month in which the 10th day after the change occurs.” BAM 220.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department’s decision to remove shelter expenses in calculating Claimant’s FAP budget was incorrect and, therefore, is REVERSED. It is ORDERED that Claimant’s FAP amount shall be reprocessed retroactive to October 1, 2010.



Susan C. Burke
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 6, 2010

Date Mailed: December 7, 2010

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 of the rehearing decision.

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