

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-12170
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 21, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 April 21, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Food Assistance Program (FAP) benefits in January, 2009?

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 a FAP benefit recipient when he reported employment income. Claimant failed to return verification of such income and was sent a notice telling him that his FAP benefits will terminate on January 27, 2009.

(2) Claimant requested a hearing on January 21, 2009 and department deleted pending FAP negative action. On January 29, 2009 department mailed the claimant a Verification Checklist, DHS-3503, along with a Verification of Employment, DHS-38, form, giving him until February 9, 2009 to provide verification of his income from [REDACTED]. (Department's Exhibits 2 and 3).

(3) Claimant has not provided requested employment verification as of the date of this hearing.

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Departmental policy states:

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month

- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.

- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.
- . information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

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. PAM, Item 130, p. 2.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. PAM, Item 130, p. 4.

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. PAM, Item 130, p. 4.

Hearing testimony indicates that the claimant applied for other type of assistance with the department and at that time reported he had employment income, 40 hours per week at [REDACTED] per hour. Claimant testified that he worked for a friend that owns an Adult Foster Care home but

that he no longer works there. Claimant further testified that his friend refuses to complete Verification of Employment form for the department, but could not explain why this would be.

Department's representative testified that an incomplete Verification of Employment was received in February, 2009 and that a telephone call was placed to the employer. A person that answered the telephone stated that the claimant still works there, but when this person realized that it was DHS calling they would not give out any other information.

Claimant has been and is still receiving [REDACTED] per month in FAP allotment, maximum he can receive as a single adult with no income. It is to claimant's benefit therefore for the department not to be able to budget any type of income, as such income could result in reduction in FAP benefits or even excess income for FAP. This Administrative Law Judge finds it difficult to believe that claimant's employer, his friend by his own admission, would refuse to provide employment income and/or verification that it had stopped if this was true, and jeopardize his receipt of FAP benefits. In addition, it is peculiar that when the department called the employer in February, 2009 they were given information that the claimant still works there until the person answering the telephone realized it was DHS calling. These actions could lead to a logical conclusion that the claimant is still indeed working and that his income is being purposely concealed from the department. Such a conclusion is not necessary in this case, as this Administrative Law Judge finds that the department has followed departmental policy in giving the claimant more than ample time and opportunity to verify his employment income. Claimant has failed to do so, and his explanation that his employer, a personal friend, is refusing to provide this information is not credible or sufficient to determine that the department was incorrect in termination action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FAP benefits in January, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 28, 2009

Date Mailed: April 30, 2009

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.

IR/db

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