

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: 2009-12217
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 17, 2009. The claimant personally appeared and testified, along with [REDACTED] a family friend.

ISSUE

Did the department properly determine the claimant's Food Assistance Program (FAP) benefit case should close on February 4, 2009, for failure to turn in a requested verification?

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 applied for FAP benefits on October 24, 2008.
2. The caseworker received an automatic fix and find (AFF) hit on the claimant for income for the period of 7/1/08 through 9/30/08 (Department Exhibit #1).

3. The department mailed the claimant a Verification Checklist (DHS-3503) on January 13, 2009, requiring the claimant have a Verification of Employment (DHS-38) completed and returned to the department by January 23, 2009 (Department Exhibit #2).

4. The claimant completed the Verification of Employment (DHS-38), indicating that she was fired from her employment on October 7, 2008. She returned the form to the department on January 23, 2009 (Department Exhibit #5).

5. The caseworker put the case into negative action because the claimant had not had her employer complete the Verification of Employment (Department Exhibit #4).

6. The claimant turned in a hearing request on January 29, 2009, and the department deleted the negative action pending the 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).

Department 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.

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.

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. PAM, Item 105, p. 9.

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.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

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.

MA Only

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed. PAM, Item 130, p. 4.

The claimant was mailed a Verification of Employment by the department because an AFF hit showed she had received income. However, as the claimant testified and as she indicated on the Verification of Employment form, she had been discharged from this employment on October 7, 2008. This was prior to her application for benefits (October 24, 2008). When the department worker found the AFF hit for income, there was no information as to who the claimant was employed with. The claimant testified that when she received the Verification of Employment form in January of 2009, she believed the department was requesting to know if she was working as of that date. She testified that she completed the form indicating that she hadn't worked since October 7, 2008, and returned it to the department.

The department worker testified that this was a reasonable belief on the part of the claimant because the Verification of Employment did not specify a time period or name her former employer. Thus, the department representative agreed to re-open the FAP case and reissue the claimant another Verification of Employment form that the claimant agreed to have her former employer fill out and return to the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department and the claimant reached an agreement on how to proceed with this case. Accordingly, the department's action is REVERSED.

The department has agreed to:

1. Re-open the claimant's FAP benefits case to the date of closure, February 4, 2009.

2. Reissue the claimant a Verification of Employment (DHS-38) form with the understanding that the claimant will have her former employer fill out the form and return it to the department.

It is noted that the negative action was deleted pending this hearing, thus the claimant has not lost benefits and the department will not have to issue any supplemental benefits.

SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 19, 2009

Date Mailed: March 20, 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.

SLK [REDACTED]

cc: [REDACTED]