

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-15685
Issue No.: 3008
Case No.:
Load No.:
Hearing Date:
April 2, 2009
Genesee County DHS (5)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on April 2, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly deny the Claimant's Food Assistance (FAP)?

FINDINGS OF FACT

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

1. On January 5, 2009, the Claimant applied for FAP.
2. On January 14, 2009, the Department sent the Claimant a verification checklist that requested employment verification concerning a previous employer. (Department exhibit 2A).

3. On February 19, 2009, the Department denied the Claimant's FAP and pended closure for March 3, 2009.
4. On February 23, 2009, the Claimant filed a request for a 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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case the Claimant notified the Department that her previous employment had ended. The Department asked the Claimant to verify that she no longer worked for this previous employer, [REDACTED]. The Claimant notified the department of difficulty in obtaining the requested verification. The department sent similar verification forms to the employer and was also unable to obtain the requested information.

The client must obtain required verification, but you must assist if they need and request help.

The claimant must obtain required verification but you must assist if they need and request help. If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. (PAM 130, p. 3)

Here, the Claimant contacted the Department and both made a reasonable effort to obtain the requested verification.

At the hearing the claimant testified that her employer refused to complete the verification form, and the department was similarly unable to obtain said verification.

The department should have used its best judgment when confronted by a recalcitrant employer, and was in error when it began denial of the claimant's FAP for lack of verification.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to reopen the Claimant's FAP and replace any lost benefits.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/30/09

Date Mailed: 05/01/09

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.

MJB/jlg

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