

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: 2009-15873

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 2, 2009

Washtenaw 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 2, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly 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 applied for FAP benefits on November 8, 2008. On December 19, 2008, claimant attended an in-person interview and stated he was in a PHD program at [REDACTED] and that he receives graduate student financial aid from the college.

2. Claimant also stated that his wife is not working but is in a midwife apprentice program through [REDACTED] and this is unpaid training.

3. Claimant was given a Verification Checklist, DHS-3503, on December 19, 2008, giving him until January 12, 2009, to provide a statement from his wife's company that she is an apprentice and not getting paid, and also to provide his financial aid award letter (Department's Exhibit #1).

4. Claimant's FAP benefits were activated pending the receipt of requested verification. Claimant did not return requested verifications and department took action to terminate his FAP benefits effective January 21, 2009.

5. Claimant's FAP case closed on January 21, 2009, claimant requested a hearing on February 25, 2009.

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.

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.

In claimant's case he reported that he was receiving U of M graduate student financial aid, and that his wife was in an apprenticeship program without getting paid. Departmental policy further states:

EDUCATIONAL INCOME

All Programs

Exclude as income and as an asset educational income such as grants, loans, workstudy, scholarships, assistanceships and fellowships for education. PEM, Item 500, p. 12.

In order for the department to exclude claimant's financial aid and to determine that his wife was indeed not being paid for her apprenticeship, department had to be provided with verification that showed this. Department therefore gave the claimant a DHS-3503 and almost 23 days to provide such verification, well in excess of 10 days required by departmental policy. While claimant testified that he had sent two e-mails to his caseworker about his financial aid that she states she did not receive, claimant also testified that he did not provide a statement from his wife's company that she is an apprentice and not getting paid, as DHS-3503 clearly specified

he had to do. Claimant therefore indeed failed to provide at least one of the requested verifications needed to determine his continued FAP eligibility, leaving his caseworker no choice but to take action to terminate his FAP benefits.

Claimant stated he had all of the verifications with him now, and was advised to re-apply for FAP right away if he still needed and wanted such assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly terminated 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: March 7, 2009

Date Mailed: March 8, 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.

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