

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.: 2009-16580

Issue No.: 3008

Case No.:

Load No.:

Hearing Date:

April 20, 2009

Wayne County DHS (76)

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 20, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close 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. The claimant was a FAP recipient
2. In January 2009, the department began a review of claimant's FAP.
3. On January 7, 2009, the Department sent the Claimant a verification checklist and among other items requested employment verification. (Department exhibit 8).

4. On January 7, 2009, the department sent the claimant a notice of adverse action on his FAP.
5. On March 6, 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 department received documentation that allegedly showed unreported income attributable to the claimant. The department sent the claimant a verification checklist requesting various documents including income and employment information.

The department suspected that the claimant was in violation of departmental reporting requirements and turned this information over to the Office of Inspector General (OIG).

The claimant argues that he did supply the department with income and employment information. In fact, the file does contain check stubs covering the period of time, December to January of 2008, being questioned by the department. These check stubs are not time stamped.

The department counters that these check stubs were supplied at a later date in support of a new FAP application in March, 2009. This ALJ finds it hard to understand why December 2008, employment information would be important for a March 2009 application. Considering

the above I find that the claimant did supply the department with income and employment information when it was requested in January, 2009.

It appears that the department, believing the claimant to be in violation of departmental reporting rules had begun the process of closing the claimant's FAP even before it sent out the January 7, 2009, verification checklist. The notification of closure, upon which the claimant requested a hearing on March 6, 2009, was produced January 7, 2009.

Discrepancies

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. (PAM 130, p. 6).

This ALJ finds the department acted precipitously. It believed the claimant to have committed an intentional program violation (IPV). This is evidenced by the statement of referral to the OIG and the checking of the box indicating IPV on the hearing summary.

According to the department the claimant reapplied in March, 2009, and is again receiving FAP benefits.

There is no basis for closing a FAP case for a suspected IPV. The department rests its arguments on the failure of the claimant to supply income and employment verification. This ALJ finds that the claimant did supply the department with the requested income and employment information in a timely manner. Therefore, the department erred in closing the claimant FAP.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES and ORDERS the Department to retroactively reopen the Claimant's FAP back to its closure in January, 2009, and replace any lost benefits.

/s/

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

Date Signed: 05/26/09

Date Mailed: 05/26/09

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

cc:

[REDACTED]