

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: 2009-21371

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

June 8, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 8, 2009. The Claimant appeared and testified. Sherese Hamilton, ES appeared for the Department.

ISSUE

Whether the Department properly closed the reduced Claimant's FAP benefits based on prospective earned income?

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 was a FAP recipient.
2. The Department received a notice that Claimant had been hired for employment. (Exhibit 1, p. 3).
3. The Department testified that an employment verification notice was mailed out to Claimant with a return date of 4/9/09.

4. Claimant testified that he received the notice.
5. Claimant returned a check stub dated 3/13/09. The check stub did not indicate the company name. (Exhibit 1, p. 1). Claimant testified that the remainder of the pay stub did not identify the company.
6. The Department testified that on 5/8/09 it sent a verification for employer completion that was returned completed by the Claimant instead.
7. Claimant testified that he understood the verification was to be filled out by the employer but that he could not get transportation to take it to the employer. Claimant did not consider mailing the verification to the employer.
8. Claimant testified that he only worked for three days.
9. On 4/21/09, Claimant's FAP case was closed.
10. On April 20, 2008, the Department received the Claimant's hearing request protesting the termination of the FAP benefits. (Exhibit 3).
11. Claimant's FAP benefits were reinstated for May 2008.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means

documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3.

In the record presented, Claimant provided information to the Department within the requested time period. However, the pay stub lacked the employer's name and address. The Claimant's FAP case was closed before the time period for Claimant to respond had even expired. Claimant did not refuse to provide verification. Rather Claimant attempted to provide information each time it was requested. Furthermore, it was apparent from Claimant's testimony that he would have benefited from some help in obtaining the employment verification. According to PAM 130, if neither party can obtain verification, then the best available information should be used. Instead of using the best available information, however, the Department closed Claimant's case. The Administrative Law Judge finds that the Department's actions were not in accordance with the intent of the regulations.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly it is ORDERED:

1. The Department's negative FAP action is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action associated with the 4/21/09 FAP closure and supplement the Claimant for any lost benefits he was otherwise entitled to receive.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/18/09

Date Mailed: 06/22/09

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.

JV/dj

cc:

[REDACTED]