

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: 2009-23644

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 30, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on June 30, 2009.

ISSUE

Was the claimant's FAP application properly denied for a failure to provide verifications?

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 was applied for FAP in Genesee County.

(2) On 3-16-09, claimant was sent a DHS-3503, Verification Checklist, with a 4-2-09 due date.

(3) Claimant was told to provide proof of income, and given an employment verification checklist.

(4) Claimant's employer paid her in cash, and refused to fill out the verification form.

(5) Claimant was unable to return the income verification.

(6) On 4-30-09, claimant's FAP benefits were denied for a failure to return verifications.

(7) On 5-1-09, DHS received a request for 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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. PAM 210. An application is considered incomplete until it contains enough information to determine eligibility. PAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory.

An application that remains incomplete may be denied. PAM 130. All sources of income must be verified. PEM 500.

However, while the claimant has the primary responsibility for returning verifications, the caseworker may not deny assistance because an employer or other source refuses to verify income. PEM 500.

If the claimant is unable to obtain verifications, despite a reasonable effort, the caseworker is to use their best judgment in appraising the claimant's claims.

In this rather straightforward case, the Department contends that claimant did not return any of her income verifications, as required by the regulations and therefore had her application denied.

Claimant credibly alleges that her employer refused to fill out the verification forms and paid claimant in cash in order to dodge payroll requirements and taxes. PEM 500 explicitly states that in cases such as these, the Department may not deny an application for a failure to verify income. The correct course of action, per PAM 130, would be for the Department to use their best judgment in assessing claimant's income. The Department did not do this, and is therefore, in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's application for failure to return verifications was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to process claimant's application using their best judgment, per the guidelines contained in PAM 130, retroactive to the protected filing date.

/s/

Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 3, 2009

Date Mailed: August 4, 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.

RJC/cv

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