

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: 2009-25159
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 June 30, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate the claimant's Food Assistance Program (FAP) benefits in April, 2009 for 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. The claimant was mailed a Semi-Annual Contact Report (DHS-1046) on March 4, 2009. The form was due back with all verifications by April 1, 2009. (Department Exhibit 1).

2. The claimant returned the completed Semi-Annual Contact Report to the department on March 9, 2009. Included with the Semi-Annual Contact Report was a pay stub from a pay period of November 22, 2008 – December 5, 2008; and a copy of the Social Security Administration's notice of the amount of SSI the claimant's son was receiving.

(Department Exhibit 2 – 3).

3. The department worker faxed the claimant's employer a Verification of Employment (DHS-38) on April 23, 2009. (Department Exhibit 4).

4. The department received the Verification of Employment from the claimant's employer on May 1, 2009. (Department Exhibit 5)

5. On April 30, 2009, the claimant faxed the department worker a copy of a paycheck stub for the pay period of 3/14/09 – 3/27/09. This paycheck stub shows the claimant received \$268.92 for this pay period and also shows that this is the same amount the claimant has received year-to-date. (Department Exhibit 5).

6. The department terminated the claimant's FAP benefit on April 30, 2009.

7. The claimant re-applied for benefits on May 15, 2009. The claimant turned in another paycheck stub on June 3, 2009 as verification for the new application.

(Department Exhibit 6).

8. The claimant requested a hearing on May 28, 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).

Department 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.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Department policy requires clients receiving FAP benefits to have a mid-certification period contact. For a client who has a 12 month benefit period, a Semi-Annual Contact Form (DHS-1046) is used for the contact. PAM 210. The DHS-1046 and verifications must be received by the sixth month of the benefit period, to effect the seventh month of benefits. The claimant's mid-certification period was the month of April. Department policy indicates that the

contact is met by receipt of a completed DHS-1046 and required verifications from the client or authorized representative. PAM 210. The report is considered complete when all sections of the DHS-1046 are answered completely and required verifications are returned. The only necessary verification for a complete report is a proof of income. PAM 210.

The department's position is that the claimant did not provide enough information for the department to complete a budget. However, this is not accurate. The department does not dispute that the claimant submitted a completed DHS-1046 on March 9, 2009. At that time, the claimant also submitted a paycheck stub from the pay period of November 22, 2008 to December 5, 2008.

Because there wasn't current pay information, the department worker faxed a Verification of Employment (DHS-38) to the claimant's employer on April 23, 2009. However, the employer did not return the form until May 1, 2009, which was the day after the verifications were due. The department worker testified that if the verifications had been received by April 30, 2009, the claimant's benefits would not have been terminated.

However, the claimant did fax the department her last (and only) paycheck stub on April 30, 2009, which was still within the mid-certification month. The department worker then testified that this copy wasn't very legible. However, this Administrative Law Judge has reviewed the faxed copy of the paycheck stub and can make out what the pertinent information is. The paycheck stub shows that the claimant grossed \$268.92 as her current pay and also shows this amount as her year-to-date amount grossed. Thus, it is clear that the claimant had only received this one check so far for 2009. Thus, the department did have the information necessary to budget the claimant's case and it was received prior to the end of the mid-certification period.

However, even if the department's claim that the information was not very legible is accepted, the claimant was never given the opportunity to provide a clearer copy. Department policy does indicate that department staff is to assist the client with verifications when necessary. PAM 105, 130. In this case, the claimant may not have even known that the fax copy didn't come through clear. The department provided no testimony or documentation showing that the claimant was notified to provide a clear copy and refused to comply.

Thus, this Administrative Law Judge does not find that the claimant did not comply with policy requirements. The claimant did submit her DHS-1046 and proof of income by the end of the mid-certification period, which was April 30, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated the claimant's FAP benefits in April, 2009.

Accordingly, the department's actions are REVERSED. The department shall:

1. Reinstate the claimant's FAP benefits back to the date of closure, April 30, 2009.
2. Issue the claimant any retroactive benefits that she is entitled to.

SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 4, 2009

Date Mailed: August 11, 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.

SLK [REDACTED]

cc: [REDACTED]