

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. 2009-29438

Issue No. 3002

Case No.



Load No.

Hearing Date:

August 17, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 17, 2009. The claimant appeared and testified. Phil Dew, FIM, and Avelina Solis, ES, appeared on behalf of the department.

ISSUE

Whether the Department properly closed the claimant's Food Assistance (FAP) benefits?

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 an ongoing recipient of FAP benefits.
2. On May 4, 2009 the department issued a Semi-Annual Contact Report to claimant with a due date for returning the form with attached verifications of June 1, 2009.

(Department Exhibit 1 pp. 3-4)

3. The department received a Semi-Annual Contact Report from claimant on May 14, 2009 but did not consider it complete as it did not have attached income verifications. (Department Exhibit 1 pp. 3-4)
4. Claimant did not submit pay stubs with the report because she was off work due to an injury.
5. On June 10, 2009, the department issued a Notice of Case Action, Potential Food Assistance (FAP) Closure because a complete Semi-Annual Contact Report had not been returned by claimant. (Claimant Exhibit 1 p. 1)
6. On June 12, 2009, claimant faxed the department a letter explaining her employment status with documentation from her Unemployment Insurance Agency claim. (Claimant Exhibit 3)
7. On June 15, 2009, claimant completed a second Semi-Annual Contact Report which was turned in at the local office with documentation from the workers compensation doctor and her employer. (Claimant Exhibit 2)
8. The department testified they did not receive the June 12, 2009 fax or the second Semi-Annual Contact Report with attached documentation claimant submitted in the local office on June 15, 2009.
9. On June 30, 2009, the department closed claimant's FAP benefits.
10. On July 7, 2009, claimant requested a hearing contesting the closure of the FAP benefits.

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”).

The department periodically reevaluates cases to ensure that eligibility for program benefits continues. PAM 210. Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. PAM 105. Under PAM 210, the department is to allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. Under PAM 130, the department is to 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.

The department must also help clients who need and request assistance in obtaining verifications, and may extend the time limit, if necessary. PAM 130.

In the present case, claimant was working at [REDACTED] when she was injured in January 2009. Claimant testified she continued working for a time after she was injured. Claimant further testified that she eventually went to the unemployment physician and was not released to return to work until June 2009. Claimant testified that during the time she was off work, she applied for unemployment benefits and registered with Michigan Works.

The department issued the Semi Annual Contact report on May 4, 2009 which claimant promptly returned and was received by the local office on May 14, 2009. Department Exhibit 1 pp. 3-4. Claimant testified she did not attach pay stubs to the Semi Annual Contact Report because she was off work due to an injury. The department testified that when the Semi-Annual Contact Report was received without the needed employment verifications, they considered it incomplete but did not contact claimant to let her know additional information was needed.

On June 10, 2009 the department issued a Notice of Case Action indicating claimant had not returned the Semi-Annual Contact Report. Claimant testified that in response she faxed the department a letter and documentation regarding her employment situation on June 12, 2009. Claimant Exhibit 3. Further, on June 15, 2009 claimant went to the local office and completed a second Semi-Annual Contact Report as instructed by the front desk and attached documentation from the workers compensation doctor and a letter from her employer. Claimant Exhibit 2.

The department testified they never received the June 12, 2009 fax or report and documents claimant submitted to the local office on June 15, 2009. Department further argued that even if they had received this information, it was not sufficient verification that claimant was off work. However, the physician's documentation reflects a work related injury in January 2009, that the injury resulted in limitations of work activities, and that she was not released to regular duty until June 11, 2009. Claimant Exhibit 2 pp. 4-9. The April 30, 2009 letter from the employer references a possible opportunity to return to work in May 2009 within the restrictions indicated by the physician. Claimant Exhibit 2 pg. 1. Claimant's June 12, 2009 fax included a letter explaining claimant was injured in January 2009 but worked for a period after the injury occurred, and eventually received workers compensation in [REDACTED]. The letter further indicated claimant went back to work 3/4 time in [REDACTED] and was laid off [REDACTED]. Claimant Exhibit 3 p. 1. The fax also included documentation of her application for

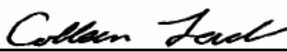
unemployment benefits showing a lack of work at [REDACTED]. Claimant Exhibit 3 p. 2.

Based upon the foregoing facts and relevant law, it is found that the department erred in closing claimant's FAP benefits. Claimant was attempting to provide the requested information and has provided sufficient proof that she submitted the Semi Annual Contact Report to the department twice, as well as documentation regarding her injury and employment status before the benefits closed on June 30, 2009. The department failed to request additional verifications when it determined the information submitted by claimant was unclear, inconsistent, incomplete or contradictory.

DECISION AND ORDER

The ALJ based upon the findings of fact and conclusions of law decides that the department improperly closed claimant's FAP benefits and it is ordered that the Department's decision in this regard be and is hereby REVERSED.

Therefore, it is ORDERED that the department re-instate claimant's FAP benefits retroactive to the closure date of June 30, 2009 and award benefits to claimant. If additional verification is still needed, it is further ORDERED that the department request the specific information claimant is to provide and assist claimant in obtaining the information in accordance with this decision.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/10/09

Date Mailed: 09/10/09

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.

CL/dj

cc:

