

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: 2009-29940
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 August 11, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly take action to terminate claimant's Food Assistance Program (FAP) benefits in July, 2009?

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 a FAP recipient when she contacted the department on June 11, 2009, and reported that she started working in April, 2009.
2. Department then mailed the claimant a Verification of Employment, DHS-38, form, for her employer to complete.

3. Department received the DHS-38 on June 22, 2009, with only the first page completed, and second page left blank without any information about the business or employer signature. One pay stub was enclosed with the form with a pay date of June 15, 2009.

4. On July 8, 2009, department mailed the claimant a Notice of Case Action telling her that her FAP benefits will terminate on July 21, 2009 to affect August, 2009 FAP issuance.

5. Claimant requested a hearing on July 15, 2009 and department deleted negative action pending the outcome of the 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).

Departmental policy requires that the department verify through appropriate documentation any changes that may affect FAP eligibility. Starting income must be verified through documentation from the employer. BAM 105. Department was therefore correct in sending the claimant a DHS-38 for her employer to complete when she reported her employment. The form was however returned incomplete without any identifying information or signature by claimant's employer. Claimant testified that the employer gave her the DHS-38 in a sealed envelope and she then provided it to the department without realizing that the form was not complete. Claimant further testified that she did provide requested pay stubs to the

department in the month of July, 2009. Claimant's caseworker states that the pay stubs were indeed received prior to the date of proposed FAP termination, which was July 21, 2009, and that the department has all the information needed to compute claimant's ongoing FAP eligibility, but that her manager still advised her to proceed with the hearing.

Departmental policy states that negative actions must be deleted in some situations. One of such situations is when the requirement is met before negative action effective date. BAM 220, p. 10. As the claimant met the requirement to verify employment income prior to the negative action date, FAP termination cannot take place, and the department must calculate claimant's ongoing FAP eligibility by budgeting her started employment income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department is not to terminate claimant's FAP benefits, as while the initial proposed termination action was correct, claimant provided requested information prior to the negative action date.

Accordingly, department's action is REVERSED. Department shall:

1. Budget claimant's employment income and determine if she continues to be eligible for FAP benefits, and if so, the amount of such benefits she is eligible for.
2. Inform the claimant in writing of this determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 12, 2009

Date Mailed: August 13, 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.

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