

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: 2009-31686
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 2009
Genesee 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 September 2, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly 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 Family Independence Program (FIP) and FAP recipient when she reported at case review that the father of her child has moved in with her and has a full time job.
2. Department then gave the claimant a Verification Checklist, DHS-3503, with a due date of June 14, 2009, to provide income information for her child's father.

3. Department extended the deadline for the claimant to provide income information into July, 2009, as she was having a problem getting pay check stubs due to a mix up with pay amounts by the employer.

4. On July 17, 2009, department took action to terminate claimant's FIP and FAP benefits effective July 29, 2009. Claimant requested a hearing on July 23, 2009, but her benefits still terminated at the end of July, 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).

Claimant testified that she is not interested in pursuing FIP benefits, and the issue of FIP termination is therefore not addressed in this hearing. Claimant is contesting the FAP termination and states that she had advised her caseworker that she was having a problem obtaining pay stubs for the father of her child, as the employer had issued incorrect pay and requested that the pay stubs be returned for correction. Caseworker testified that she was aware of the claimant having a problem with providing the pay stubs that she requested. Departmental policy states:

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.

Obtaining Verification

All Programs

Tell the client what verification is required, how to obtain it, and the due date (see “**Timeliness Standards**” in this item). Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. PAM, Item 130, p. 2.

The client must obtain required verification, but you must assist if they need and request help. PAM, Item 130, p. 2.

That the claimant had to verify employment income of a mandatory FAP household member, the father of her child, is not in dispute. However, claimant did notify her caseworker that she was having a problem doing so through pay stubs. Department has a Verification of Employment, DHS-38, form, that is routinely used to verify income, and that is to be completed by the employer. Claimant’s caseworker did give the claimant more than ample time to provide the pay stubs she requested, but states that she did not provide the DHS-38 to the claimant. Doing so may have supplied the income information needed for FAP eligibility determination without the need for pay stubs, and termination of claimant’s FAP benefits was therefore not correct.

Claimant’s caseworker states that it appears she may now have all of the income information needed to determine claimant’s August, 2009 FAP eligibility.

DECISION AND ORDER

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

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

1. Determine if all of the income information needed for the FAP eligibility determination is in the possession of the department.
2. Issue the claimant a Verification Checklist, DHS-3503, with a Verification of Employment, DHS-38, form, for any missing employment information verification.
3. Upon receipt of additional income information or if the information is already in possession of the department, compute a FAP budget for August, 2009 and issue the claimant any FAP benefits she is entitled to, but did not receive, as a result of July, 2009 case closure.
4. Notify the claimant in writing of FAP eligibility determination.

SO ORDERED.

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

Date Signed: September 8, 2009

Date Mailed: September 9, 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.

GFH [REDACTED]

cc: [REDACTED]