

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: 2009-34316

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 5, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing has conducted from Detroit, Michigan on October 5, 2009. The Claimant appeared and testified. Judy Fineman, FIM appeared for the Department.

ISSUE

Whether the Department properly closed the reduced Claimant's FAP benefits based on failure to submit wage verifications?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant was an active FAP recipient.
2. In April, 2009, Claimant verbally reported to the Department that her job with [REDACTED] had ended.

3. On 5/29/09, the Department sent Claimant a Verification Checklist asking that a completed Wage Verification be returned. (Exhibit 1).
4. Claimant testified that the wage verification was not included in the verification request and that she began calling her caseworker to discuss. Claimant testified that she continued calling, but often times was unable to leave a message due to full inbox and was unable to discuss with either caseworker until July of 2009.
5. On 6/17/09, the Department sent Claimant a Verification checklist asking for “verification of employment for [REDACTED], to verify that seasonal job ended.” (Exhibit 2).
6. On 7/20/09, the Department sent Claimant a Verification checklist requesting wage verifications. (Exhibit 3).
7. Claimant testified that she turned in all information requested, including her last pay stub from [REDACTED], but due to the Department switching case workers, Claimant’s information was not received in the proper hands.
8. The file contains an envelope addressed to the Department postmarked on 7/19/09. (Exhibit 4).
9. Pay stubs were received by the Department on 7/20/09.
10. On 7/30/09, Claimant’s FAP case was closed.
11. On July 20, 2009 the Department received the Claimant’s hearing request protesting the termination of the FAP benefits. (Exhibit 3).
12. Claimant’s FAP benefits were pending the hearing.

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”).

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client’s verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3.

In the record presented, Claimant testified that she attempted numerous times to get in contact with the caseworker regarding the lack of verification form to send to [REDACTED]. However, Claimant was unable to get in contact with either caseworker assigned by the Department in a timely manner. Once she spoke to the reassigned, original caseworker about what was needed by the Department, Claimant mailed in pay stubs to the Department and they were received in a timely manner. The only thing not received was a verification from [REDACTED] [REDACTED] indicating that Claimant no longer worked there. Claimant did not refuse to provide

information and certainly made a reasonable effort to provide it. Claimant testified credibly that had she received the form, she would have sent it on to her former employer. Furthermore, Claimant attempted to get help from the Department. The Department should have sent a wage verification form to [REDACTED] itself. According to PAM 130, if neither party can obtain verification, then the best available information should be used. Instead of using the best available information, however, the Department closed Claimant's case. The Administrative Law Judge finds that the Department's actions were not in accordance with the intent of the regulations.

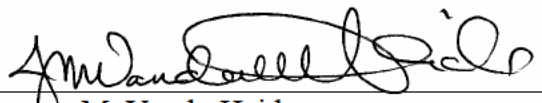
Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FAP case.

Accordingly, it is ORDERED:

1. The Department's negative FAP action is REVERSED.
2. The Department shall reopen the Claimant's FAP case back to the date of closure, delete any negative action associated with the 7/30/09 FAP closure and supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/02/09

Date Mailed: 11/09/09

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.

JV/dj

cc:

