

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: 2009-5889
Issue No: 3008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 4, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on February 4, 2009. Claimant appeared and personally testified.

ISSUE

Did the Department act properly in closing Claimant's Food Assistance (FAP) case?

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.
- (2) Her monthly benefit allotment was [REDACTED].
- (3) When the Department did not receive her semi annual review form by November 10, 2008, the Department sent a computer-generated letter reminding Claimant that her case

would close at the end of November 2008 if the semi annual review form was not received by the last day of November.

(4) The Department did not receive the semi annual review form by the end of November 2008. Consequently, Claimant's case was closed on November 30, 2008.

(5) Claimant asserted that she received neither the semi annual review form nor the reminder.

(6) Claimant disagreed with the Department's action on the grounds that she did not receive the semi annual review form or the notice that her case would close by the end of the month if the completed form was not submitted

(7) The Department received Claimant's hearing request on December 4, 2008.

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 (formerly known as the Family Independence Agency) 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).

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. 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.

* * *

All Programs

Tell the client what verification is required, how to obtain it, and the due date (If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment.

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or the time period given has elapsed.**

Only adequate notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Discrepancies

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source.

Under PAM 130, when incomplete or inconsistent information has been provided to the Department regarding an eligibility factor, a client should be given a reasonable opportunity to resolve a discrepancy and “**Timely** notice is required to reduce or terminate benefits.” In this case, Claimant did not receive the semi annual review form and did not receive timely notice that her case would close if the Department did not receive the form by the last day of

November 2008. Under these circumstances, it is found that the Department did not give Claimant a reasonable opportunity to respond its request because she was unaware of the request.

DECISION AND ORDER

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

Accordingly, the Department's FAP action is REVERSED. The Department is ordered to reopen the case and issue any retroactive FAP benefit that Claimant is otherwise eligible to receive.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 9, 2009

Date Mailed: February 12, 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 of 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.

TLW

cc:

[REDACTED]