

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: 2009-7411

Issue No: [REDACTED]

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 4, 2009

Oakland 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 March 4, 2009. Claimant personally appeared and testified along with his niece Heidi Al-Sheikh.

ISSUE

Did the department correctly take action to terminate claimant's Food Assistance Program (FAP) benefits in December, 2008?

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 his case was reviewed and he reported that he had relatives supporting him (Department's Hearing Summary).

2. On November 17, 2008, department mailed the claimant a Verification Checklist, DHS-3503, giving him until December 2, 2008, to provide statements from all relatives that are helping him stating exactly how much cash they give him monthly, signed and dated and with a telephone number where they can be contacted at (Department's Exhibit #3).

3. Claimant did not return requested verification. On December 11, 2008, department mailed the claimant a Notice of Case Action telling him that his FAP benefits will be cancelled effective December 23, 2008, due to his failure to provide verification of his income.

4. Claimant used the reverse side of the Notice to request a hearing on December 22, 2008, and continues to receive FAP benefits pending the outcome of this 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 states:

#### **CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES**

##### **Responsibility to Cooperate**

##### **All Programs**

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

## **Refusal to Cooperate Penalties**

### **All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. PAM, Item 105, p. 5.

**Income** reporting requirements are limited to the following:

- . Earned income
  - .. Starting or stopping employment
  - .. Changing employers
  - .. Change in rate of pay
  - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
  
- . Unearned income
  - .. Starting or stopping a source of unearned income
  - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

## **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.

## **Refusal to Cooperate Penalties**

### **All Programs**

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## **VERIFICATION AND COLLATERAL CONTACTS**

### **DEPARTMENT POLICY**

#### **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. PAM, Item 130, p. 1.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

### **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.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. PAM, Item 130, p. 4.

In claimant’s case he reported to the department that he was receiving income from relatives. Departmental policy quoted above requires that any income received be verified. Department therefore mailed the claimant a Verification Checklist giving him more than 10 days required by policy to return verification of his income. Claimant failed to provide requested

information and the department, again in accordance with the quoted policy, then took action to terminate his FAP benefits.

Claimant's hearing testimony is that his niece gives him money, but it is a loan to him, not a gift. Even if this was the case, claimant was still required to provide verification of this loan/income to the department for evaluation and failed to do so. Furthermore, claimant and his niece were advised during the hearing that in order for money given to someone to be considered a loan certain conditions must be met, as specified in the following departmental policy:

## **LOANS**

### **All Programs**

Exclude funds a person has borrowed provided it is a **bona fide** loan. This includes a loan by oral agreement if it is made a **bona fide** loan.

**Bona fide** loan means all the following are present:

- . A loan contract or the lender's written statement clearly indicating the borrower's indebtedness.
- . An acknowledgment from the borrower of the loan obligation.
- . The borrower's expressed intent to repay the loan by pledging real or personal property or anticipated income.

This exclusion does NOT apply to:

- . purchases made with borrowed money, and
- . interest earned on borrowed money. However, the interest might be "**Inconsequential Income**" as defined in this item. PEM, Item 500, pp. 22-23.
- .

Department's representative was to give the claimant a copy of this policy following the hearing. Claimant and his niece can use this information for future reference and FAP benefit eligibility determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FAP benefits in December, 2008.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

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

Date Signed: March 10, 2009

Date Mailed: March 11, 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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