

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: 2009-14513

Issue No: 3008

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 21, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 April 21, 2009.

ISSUE

Was the claimant's FAP allotment properly cut off for a failure to provide verifications?

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 an FAP recipient in [REDACTED]
- (2) Claimant was up for an annual redetermination of his benefits in June 2008.
- (3) On 6-19-08, claimant was sent a DHS-3503, Verification Checklist, that asked for, among other things, verification of all family income.

(4) On 6-26-08, claimant returned a DHS-1171 for his redetermination that stated, among other things, that all members of his household bought food and prepared meals together.

(5) Though many of the family members in his house had their own incomes, claimant did not provide verification of this income.

(6) Claimant does not speak English.

(7) Claimant did not request assistance in filling out his DHS-1171.

(8) Claimant had his daughter fill out the DHS-1171, but signed it himself.

(9) Because claimant did not return verifications by the redetermination date of 6-30-08, claimant's case was closed.

(10) On 8-16-08, claimant reapplied for FAP benefits.

(11) On his new application, claimant stated that the other members of the household did not buy or prepare food with the claimant.

(12) On 8-15-08, claimant filed for hearing, alleging that he was not informed of the current situation.

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).

A DHS-1171, Assistance Application must be completed when eligibility is re-determined. PAM 210. An application is considered incomplete until it contains enough

information to determine eligibility. PAM 115. Eligibility is determined through a claimant's verbal and written statements; however, verification is required to establish the accuracy of a claimant's verbal and written statements. Verification must be obtained when required by policy, or when information regarding an eligibility factor is incomplete, inconsistent, or contradictory. An application that remains incomplete may be denied. PAM 130. All sources of income must be verified, for all members of the FAP group. PEM 500. The FAP group includes, among others, those members of the household who buy and prepare food together. PEM 212.

In the current case, the Department contends that claimant did not return any of his verifications, as required by the regulations, and was therefore cut off of his benefits.

The claimant was unable to present any evidence with which to refute this contention, or provide a reason for the delay. Claimant did claim that he was unaware he had to return any verifications; he speaks little English, and testified that he was unable to read the verification checklist. However, claimant does speak Arabic, and printed on the front of the DHS-1171, which was returned, and printed on posters located at the Department office, is a notice in Arabic that states that a client can request help filling out any form. Furthermore, claimant was aware of the Department's use of interpreters and had used them before. Therefore, claimant's language barrier is no excuse when the Department provides assistance to overcome the language barrier. Similarly, if claimant needed assistance with securing his verifications or understanding the notices sent to him, claimant could have asked the Department for help; he had adequate notification of this.

Claimant also argued that he should not have had to return verifications for his grown children who reside in the same house, but do not contribute support to the claimant. This may be true; however, in claimant's returned DHS-1171, he stated that these members of his household prepared food with the claimant. PEM 212 requires that all household members who

buy and prepare food together must be treated as members of the FAP composition group; therefore, claimant needed to turn in these verifications.

However, claimant further argued that he did not fill out the DHS-1171; his daughter did it because claimant does not speak English. The undersigned finds this argument to be without merit. As discussed above, the front of the DHS-1171 application contains notification in Arabic that the client can request help filling out the form. Claimant did not request this help, but claimant did sign his name to the form. This signature is acknowledgment that claimant understood what was in the form. He had the opportunity to get help, but did not do so. Thus, his complaint that he did not know what he was signing cannot be upheld, and the Department was correct when it processed his application and treated his verification requirements as if his children were members of his household.

For these reasons, the undersigned finds that while claimant may truly have not understood his obligations, he had the opportunity to request assistance, and he was notified that he could have requested assistance. He did not, and therefore, the Department was not in error.

Finally, the claimant testified that he did not go to the interview because his daughter, who also filled out the application form, told him that if he went to the interview, he would be kicked out of the house. This statement raises a red flag with the Administrative Law Judge, who takes any allegation of abuse, no matter how small, very seriously. For that reason, the undersigned will order the Department to refer claimant to [REDACTED] for an investigation into the claimant's situation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's FAP allotment was correct.

Accordingly, the Department's decision in the above-stated matter is, hereby,
AFFIRMED.

The Department is ORDERED to refer claimant to [REDACTED] for an
investigation into his own situation.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 4, 2009

Date Mailed: May 5, 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 90 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.

RJC/cv

cc:

[REDACTED]