

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: 2009-15311

Issue No: 3019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 2, 2009

Wayne 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 April 2, 2009. Claimant personally appeared and testified. The Department was represented by an eligibility specialist.

ISSUE

Did the Department act properly in closing Claimant's Food Assistance Program (FAP) case on the grounds that he failed to submit the Semi-Annual Report Contact Report?

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) His case was due for a semi-annual review. Therefore, the Department sent Claimant a Semi-Annual Contact Report in February 2009.

- (3) The Department's witness asserted that the Department never received the completed Semi-Annual Contract Report. Consequently, Claimant's case was closed on February 28, 2009.
- (4) Claimant contends that he sent a completed Semi-Annual Contact Report to the Department using the U.S. Postal Service's priority mail. Claimant contends that he verified through the postal service that the Department received the report several days before the February 28, 2009 deadline. Claimant did not bring the proof of confirmation to the hearing.
- (5) When Claimant requested the hearing, he also requested to continue receiving his monthly food assistance benefit allotment until after the hearing.
- (6) Claimant's benefits case, however, closed on February 28, 2009 and this hearing was held on April 2, 2009.
- (7) The Department received Claimant's hearing request on February 13, 2009.
(Exhibit 2).

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).

DEPARTMENT POLICY

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 130, pg. 1)

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 necessary forms. (PAM 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 105, p. 5)

Timely Hearing Request

All Programs

A **timely hearing request** is a request received anywhere in the department:

- Within the pended negative action period; **or**
- Within eleven days of the effective date of an immediate negative action (i.e., with adequate notice). When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday; **or**
- Prior to the effective date of an automatic MA or AMP termination.

The effective date on the DHS-1605 is the MA end date on CIMS (negative action code 095).

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, do one of the following that applies to the case.

- Delete the pending negative action.
- Reinstate program benefits to the former level for a hearing request filed because of an immediate negative action.

For **FAP only**, these actions apply **only** if the benefit period has **not** expired.

Exception #1: For **all programs**, do **not** restore benefits reduced or terminated due to a mass update required by state or federal law **unless** the issue contested is that the benefits were improperly computed.

Exception #2: For **All Programs**, do **not** restore program benefits when the AHR or, if none, the recipient specifically states in writing that continued assistance pending the hearing decision is **not** requested.

Exception #3: For **FAP only**, if an AHR or, if none, the client disputes the computation of supplemental benefits, issue the supplement as originally computed. (PEM 600, p. 17-18)

Under PAM 130, when verification is sought, the client must be told “what verification is required, how to obtain it and the due date.” Furthermore, under PAM 105, the client has a responsibility to cooperate with the Department, which includes completing any forms necessary to determine initial or ongoing eligibility for assistance benefits. In this case, although Claimant contends that he mailed his complete Semi-Annual Contact Report to the Department before the deadline, he failed to provide documentation of having done so, making his testimony on this issue less credible than had he provided proof of delivery.

In addition, under PEM 600 “recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely.”

2009-15311/TW

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.

TW/dj

cc:

A large black rectangular redaction box covers the names of the recipients in the 'cc:' field. The redaction is composed of several overlapping horizontal bars of varying lengths, creating a solid black block.